THE NEW REPUBLIC

Robert F. Kennedy

Alexander M. Bickel

Congress and the President

John Morton Blum

Balance in the Cabinet

Richard F. Fenno, Jr.

Just Wars

William Lee Miller

January 9, 1961, ·

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T.R.B. *from Washington*

Ring Up the Curtain

★ The Cabinet is chosen, Congress has met, the show begins. How do the first high scenes of drama compare with that other performance – the great one – FDR in 1933? Well, there are a few similarities. Once more there is a bewildered outgoing President who obviously doesn't know what it's all about. To friends Eisenhower still uses the phrase "young geniuses" in reference to the newcomers. He uses it derisively, defensively. . . . Poor, tragic Hoover didn't understand either; never did.

Banks were closed in 1932, some smelled revolution. Nothing like that today, and it makes Kennedy's task much harder. People in 1932 were lean, hungry, scared; today many are fat, complacent, tranquilized. FDR had a palpable crisis and a huge mandate; Kennedy has a half-mandate and a crisis half the nation won't acknowledge. That is why Kennedy's crucial task is to establish rapport with the people; he must do that before anything, he can't give leadership without followship.

FDR had to hold the people; Kennedy must reach them. FDR invented the radio "fireside chat" (six in 1933 and 1934), and also employed the twice weekly press conferences. (I can see him now as we trooped in, sitting behind a desk cluttered with dolls and totems, cigarette holder a-tilt, grinning like a cat in anticipation of the contest to which he came like a skilled player!)

Kennedy knows about publicity too; he is using his outdoor conferences to strengthen the impression of informality, alertness, competence. Soon he will try some live evening press conferences over TV; a wise move, no doubt, from his point of view though a little irritating to reporters who become unpaid performers in what essentially sounds like a combination "fireside chat" and TV quiz show.

One searches for further resemblances. Kennedy was only 15 when FDR came to Washington. Each had an upperclass education, found a life of public service more attractive than money-grabbing and each had a respect for the decencies. At heart, too, each had a kind of patrician reticence, an impervious private dignity.

But no, 1961 isn't 1933! The New Dealers who poured into Washington to take over government were as gaudy a bunch of amateurs, intellectuals and crackpots as this experienced capital has ever seen – men whom FDR set against each other with sometimes unkind virtuosity, catching the sparks in a net.

What a gang! – Hopkins, Wallace, Ickes, Fanny Perkins, Tommy the Cork, Henry the Morgue, Ben Cohen, Adlai Stevenson, General Johnson, Ray Moley, Abe Fortas, Alger Hiss – the list goes on and on.

These Were the Days

★ The Kennedy Cabinet is competent – enormously, reassuringly competent, but nothing like this. It begins with *cum laudes* and works up to Rhodes Scholars. One instinctively compares it with the Eisenhower crowd and shouts hosannahs; goodbye stuffed shirts, businessmen and pietists! The President-Elect has made a swell selection, no doubt about it.

But note that it is all under control or seems to be. It is disciplined. Compared to the wild men FDR cheerfully threw at each other this bunch looks like a troop of Eagle Scouts. Some FDR advisers came like mystics to a shrine; some were Frankfurter's finds who began fertilizing ideas before they reached Union Station.

Oh well, we can't have fun like that again, I suppose . . . those gorgeous, disorderly far-off days when anything was possible! In no time at all the whole upperclass elite hated FDR with a psychotic hatred; chiefly, it seemed, because he had reopened their banks and saved their bacon. Kennedy wouldn't want a team of players like that. It wouldn't really be appropriate. He is a different type.

Kennedy, I guess, will not commit the errors FDR did. He is both more surefooted in some ways, and reserved. Furthermore, he dare not take the other's risks. FDR could take risks because he had the emergency and a majority and also because he had imposed his personality on the public: the gay, confident champion of the little man, the image of human warmth. People forgave him because of that. Under the onionskin layers of his complex and contradictory personality you peeled down to a man who deeply cared, who was capable of brilliant dramatization because he was fervently committed.

That is the problem now for Kennedy as the new Congress opens the show – the youngest man ever elected. He has picked a fine cast and offered a good prologue; *The New York Times* likes him; he has shown personal force and dignity. But there is a certain coolness and grayness in his very orderliness. His one true objective is to create a new mood in the American people, everything else is secondary. He must capture the country's imagination – but this needs evangelism, not intellectualism.

It is not fair to ask Kennedy to be FDR. All the same his success turns on showing he cares, cares passionately, and doing it before the elite turn against him and begin to hate him for saving them.

"We Must Act"

★ Perhaps I have omitted one other similarity between the two, in most ways so utterly different, men. They both wanted to advance. They profoundly felt the need for getting off dead center and loathed complacency in the face of danger. The one in a wheel chair and the other with his touch football, were apostles of change. Action.

Whether Kennedy can swing it nobody knows. It is enormously important for all of us. But his motto January 20 when he takes the oath might well be like FDR's, 28 years ago, on a bleak Saturday in March – "The nation asks for action, and action now. . . . We must act, and act quickly."

Yes, that's it.

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THE NEW REPUBLIC *A Journal of Opinion Volume 144 Number 2 Issue 2409 January 9, 1961*
***Published** weekly (except for omissions of four summer issues) and distributed by* The New Republic, *1244 19th St., N.W., Washington 6, D. C. Phone: FEderal 8-2494. Single copy 25c. Yearly subscription, $8.00; Foreign, $9.00, Armed Forces personnel or students, $5.00. Advertising rates upon request. Subscribers desiring change of address should notify us at least three weeks in advance. Include old and new address. Copyright© 1961, by Harrison-Blaine, Inc. Item g. Second class Imprint. reading Second Class Postage Paid at Washington, D. C.*

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Masters of Our Schools

If educators have their way – and John Kennedy's record suggests that they may – the Federal Government will be spending considerably more money on public education this year than it did in 1960. But even among educators, and liberal legislators who support them, the question of how this money should be spent and who ultimately will be the schools' masters remains a topic for heated disagreement.

At one extreme, conservatives have argued that any Federal expenditure for education would lead to Federal control and thus undermine individual and community freedom. (Presumably this fear of Federal expenditure does not extend, in most cases, to the $600 million which the government already spends, but in Senator Goldwater's circle perhaps even federally-subsidized school lunches and biochemistry research are sinister.) Moderates have tended to agree that Federal control is undesirable, but realizing that local property taxes cannot be raised much further, and convinced that expenditure for education must rise somehow, such men have been driven to support Federal aid as the only alternative, and have tried to show that subsidies need not lead to control. Only a few radicals, occasionally including *The New Republic*, have ventured to say that education might actually benefit from some national guidance as well as national subsidies.

History suggests that there is little room for moderation on the subject. At least Federal expenditures have always in the past been used to favor one side or another in local controversies. The story goes back to the Morrill Act of 1863, which was used to support the vocationalist minority in education against the still entrenched liberal arts majority (and particularly the advocates of the classics). Support for vocational education, and especially agriculture, has continued since then, and now affects the battle even in the high schools. More recently, Congress has intervened on the side of the scientists in their internecine faculty war with university humanists. Huge expenditures for scientific research, and more recently for scientific training, have helped the scientists to become better paid than their humanistic colleagues, and freer to do the research they enjoy. One result has been the gradual drift of talented potential teachers and scholars from history or literature to physics or chemistry.

It was in this tradition that the 1958 National Defense Education Act chose to subsidize specific neglected areas of the educational endeavor, rather than offering no-strings-attached grants to local and state authorities. Anyone who has watched a school board or state

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legislature at work will share the Congressmen's view that these groups, given a free hand, would never have spent their money on the schemes which expert testimony indicated were necessary for the national welfare. After all, what local community cares to underwrite research which, even if successful, will only pay off over decades, and then on a national scale? And few local communities care to spend millions of dollars on something like the teaching of foreign languages, which will be primarily important to people who move elsewhere, either overseas or to the cosmopolitan centers.

In theory, of course, Federal support for a particular line of activity need not constitute intervention. The advocates of Federal aid for school construction, for instance, argue that their bill would free local funds to improve teachers' wages. But in practice things do not seem to work out that way. Federal expenditures for science could have freed other endowments for the humanists, but what actually happened was that the universities also spent more of their own endowments on science, hoping to build up big research centers which would then get even more government contracts. And while it is true that school boards freed from financing new buildings would be able to use additional taxes solely for their teachers, it is equally likely that they would use them for the upkeep of the communal monuments erected with Federal funds.

There seems little doubt that the National Education Association, and the liberal Congressmen who along with it supported the Murray-Metcalf aid-to-education bill in the last session, sincerely believe that local autonomy and Federal support are compatible. Yet surely a Congress asked to appropriate a billion dollars a year for the schools will hold hearings to determine whether the money is doing any good. And surely they will be told of all the ways in which it could be more wisely spent if the myopic local school board or the self-seeking state legislators were not in the saddle. Once Federal responsibility is an established principle (it is already an established fact), will Congress not feel compelled to remedy what it sees as the more glaring defects of the schools? And won't these remedies mean changing the way local schools operate? Of course it is not the same for Congress to subsidize physics as for it to forbid the teaching of driver training, though in the long run the effect on the school curriculum is rather similar. But if Congressional appropriations lead sooner or later to Congressional control, does it follow, as everyone seems to assume, that this is undesirable, much less disastrous? Americans are still shackled by the Jeffersonian untruth that the best government governs least, and that central government is worst of all. Yet the vision of creeping totalitarianism has very little historical or sociological justification. Totalitarianism does not creep, it leaps. Dictators do not emerge gradually from an ever more powerful state, but suddenly from a feeble and anarchic one. Was the trouble with the Weimar Republic that it was too strong? Even the conservatives would have to admit that their pet bugaboo, FDR, acquired his power because the government had proved so weak that the people were prepared to accept centralization of authority as the only practical alternative to anarchy.

It is important to realize that national control of anything normally means professional control by experts. Even the most hot-blooded and power-hungry Congress cannot run a school system. It must rely on a bureaucracy to do so. In European countries, where the schools are administered by central Departments of Education, effective direction is in the hands of educators, who either advise or become the bureaucrats in the central office. The resulting loss of local control over local schools has many disadvantages, especially for the less gifted students in whom most professional teachers are not very interested. But the one advantage which stands out from European experience with nationalized systems is that it encourages, rather than discourages, classroom freedom. The local DAR can coerce the Jonesville school board into banning books on the UN, and perhaps the local clergy can monitor classroom discussions of sex, but no English Empire Loyalist can make Whitehall drop books by Barbara Ward if a teacher wants to use them. It is of course possible that when, as in America, there is so little tradition of academic freedom, and no professional ethos or organization to support such a tradition, centralization might lead to a Russian rather than a European relationship between schools and government. But while American teachers often tend to act more like civil servants than like professional experts, there is generally speaking more freedom in schools controlled by the Federal government (in Federally impacted areas) than in the majority of locally controlled schools.

Bureaucracy is not just a social cancer, spreading without reason or benefit. Bureaucracies arise because, on the whole, they are more efficient, more reasonable, and more equitable than the networks of personal influence which they replace. Few have been more critical of the manner in which Congress plods about its business than *The New Republic*. But compared with the self-appointed guardians of the public weal who dominate state legislatures and local school boards, Capitol Hill looks like a center of expertise and altruism. The tradition of the New England town meeting which still haunts the national imagination whenever "local control" is mentioned bears little resemblance to the conventions of local fat-cats to whom we are actually entrusting our children's future. It is time Congress stopped acting as if it were reprehensible to assume educational responsibilities which others neglect.

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The Business of the House

The President-elect may have put it strongly to Speaker Rayburn in their meeting at Palm Beach that it is going to be hard enough to get any of his program through the Congress without suffering further obstruction by the House Rules Committee, or Mr. Sam's patience may have begun to wear thin after years of legislative sabotage by that powerful Committee. If so, one may anticipate some carefully-planned moves in this first week of the new Congress to restore the Rules Committee to its true function – a legislative traffic cop, and not a permanent stoplight.

Since 1937, that Committee has been the tool of either a conservative coalition of Southern Democrats and Republicans or (as in the 80th and 83rd Congresses) of the Republicans alone. It has been singularly unresponsive to Presidential pleas or threats. Its members hold their positions not by virtue of Presidential preferment. The only attempt in recent years to purge some of its more intransigent members (Mr. Roosevelt's effort in 1938) was a near disaster.

The composition of the Committee today is four, four and four – one-third Northern and Western Democrats, one-third Southern Democrats and one-third Republicans. Under the Chairmanship of Byrd-like Howard Smith of Virginia this has meant that six blocking conservative votes have almost always been on call. If the Committee procedures or its make-up are left unchanged, there will be very little "moving forward" in the House – and what forward motion there is will be accomplished only by the most extraordinary parliamentary maneuvering. The President-elect is not so much handicapped by the closeness of his victory over Mr. Nixon as by the debilitating loss in the House of nearly two dozen Democratic Representatives – none of them from the South. In order to win approval for even such retread welfare measures as raising the minimum wage or attaching medical benefits to the Social Security system, Mr. Kennedy will need the votes of a considerable number of Southern Democrats or of more progressive-minded Republicans, or both. And he will need too a Rules Committee which is not capable of interposing an automatic veto.

Reform of Rules can be accomplished if the Democratic caucus in the House refuses this week to accept as Democrats in good standing those members who publicly opposed the Kennedy-Johnson ticket in the election, as did William Colmer of Mississippi, who campaigned for an independent slate of electors from his state, and whose position on the Rules Committee is therefore subject to attack by his party. And this deprivation would apply not only to Mr. Colmer but to other Democrats in the South, who did as he did. If Mr. Colmer is replaced on Rules by a Democrat more

"I Said I Had Him Trained – Notice How He Sits Up?"

amenable to Presidential leadership, the conservative coalition's power will have been somewhat curtailed. Alternatively, the Rules Committee might be enlarged to 14 members, since there is nothing sacrosanct about the number 12 – the Committee has varied in size throughout the years. If it could be increased by two – with the addition of a Northern Democrat and a more moderate Southerner such as Carl Elliott of Alabama, again the more progressive forces would have a better chance of getting House consideration for the kind of legislation that Mr. Kennedy wants. And in addition, and not necessarily as an alternative to either of these reforms, the House again could adopt the 21-day rule permitting members to bring to the floor for consideration legislation that has been bottled up for at least that number of days by the Rules Committee. It could also decide that bills may be sent to a House-Senate conference by a majority House vote, without Rules Committee sanction; and it could reduce the number of signatures required to force the committee to release a bill.

Mr. Kennedy tactfully has said that these are matters for the House itself to decide. What he said privately to Mr. Sam is something else. But the proprieties have been respected. Now it is up to the Speaker. Two years ago he promised impatient younger members that he could handle the Rules Committee. But he couldn't and he didn't. More decisive disciplining is now essential.

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What Kind of Defense?

In the January issue of *Foreign Affairs* General Maxwell Taylor, former Chief of Staff of the Army, trumpets a note of certainty. "The requirements of security bear inexorably upon us, demanding prompt solutions," he writes. "The military trend is running against us and decisive measures are needed to reverse it." The Pentagon staffs, he adds, are "ready to proceed in any reasonable direction clearly indicated by responsible civilian leadership. They will move promptly now if they receive the basic guidance." He warns against a danger that leadership may take too much time to ponder. What principle needs to be articulated? "The most obvious one, perhaps," he says, "is that world conditions have changed drastically since the adoption of the so-called New Look in 1953 and its supporting strategy of massive retaliation, and that a program is needed which will take the changes into account. Such a program needs to be based on a flexible military strategy designed to deter war, large or small."

But the Secretary-designate of Defense, Robert McNamara, is a novice in military strategy – albeit a man of high energy and talent who shows no sign thus far of being hampered by such preconceptions as enthralled Charles E. Wilson – and this inexperience has added to an anxiety lest the new Administration take too long in recasting its defense policies. To whom will Mr. McNamara turn for early guidance? To the new Secretary of the Navy? John B. Connally, Jr., like one of his more recent predecessors, Robert B. Anderson (who had managed the Waggoner oil monies) comes to the Navy after 12 years as guardian of another Texas fortune – the estate of the late Sid Richardson. Mr. Connally has sat on dozens of Eastern boards of directors, among them the New York Central, representing Richardson Enterprises. But the new Navy Secretary (though he did serve briefly on the wartime staff of James Forrestal) is unlikely to contribute much to re-thinking strategic doctrine. Mr. Connally is a good-looking, clever, tough operator who learned the game of convention-hall politicking at the side of his equally-tough mentor, Lyndon Johnson. His friends in the gold-plated Fort Worth Club (not to mention Johnson) declined to support his aspirations for the Johnson Senate seat. He got the Navy Secretaryship as a consolation prize.

The close identification with the Air Force of Mr. McNamara's Deputy, Roswell Gilpatric, adds to fear that the inherited strategic imbalance may be continued by default. And the Air Force has another partisan in its new Secretary, Eugene Zuckert.

In Paul Nitze, designated to be Assistant Secretary for International Security Affairs, the President-elect does fortunately have a principal subordinate of high capability in such diverse fields as strategy and weaponry, finance, economics, and diplomatic negotiation.

But in our view, clear enough guidance to the new Pentagon team has already been given – and by the President-elect. Mr. Kennedy ran on a platform pledged "to provide forces and weapons of a diversity, balance and mobility sufficient in quantity and quality to deter both limited and general aggression." In the Senate last February he said, ". . . both before and after 1953 events have demonstrated that our nuclear retaliatory power is not enough. It cannot deter Communist aggression which is too limited to justify atomic war. It cannot protect uncommitted nations against a Communist takeover using local or guerrilla forces. It cannot be used in so-called brush-fire peripheral wars. In short, it cannot prevent the Communists from gradually nibbling at the fringe of the free world's territory and strength, until our security has been steadily eroded in piecemeal fashion – each Red advance being too small to justify massive retaliation, with all its risks.

"Small atomic weapons are not the answer, for they suffer from much the same handicaps as large atomic weapons. If we use them, the Russians use them. Even the smallest atomic weapon would leash 100 times the destructive power of World War II's largest conventional bombs. And even the smallest atomic weapon today produces fission – and thus fallout – and thus can reduce to a complete shambles the areas in which it is used – a friendly area, presumably. . . ."

Again, last September, Mr. Kennedy endorsed a judgment "that responsible leaders in the West will not and should not deal with limited aggression by unlimited weapons whose use could only be mutually suicidal."

Addressing the American Legion a month later, he articulated a three-point answer to the question: "What must we do to regain our strength." He said: "First, we must take immediate steps to protect our present nuclear striking force from surprise attack. . . . Second, we must step up crash programs on the ultimate weapon – the Polaris submarine, the Minuteman, which will eventually close the missile gap. Third, we must modernize, and I think especially give an airlift capacity to the armed services, particularly the Army. . . ."

The guidelines are clear enough. It is necessary only for Mr. Kennedy as President to establish in and out of the Pentagon the authority of the intentions he expressed as a candidate.

More New Faces

McGeorge Bundy, Dean of the Faculty of Arts and Sciences at Harvard and the principal writer of the memoirs of Henry L. Stimson, is another of the high IQ, young (41), versatile academic-public service types recruited by the new team. His roots are Republican (he

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was on Dewey's speech-writing team in '41), but he was an early Kennedy backer in '60, and as the President's special assistant for National Security Affairs, he is likely to be a stimulating as well as efficient factotum in the National Security Council.

The new Solicitor-General, Archibald Cox, has few peers in the field of labor law; he has been a staff lawyer in the office of the Solicitor-General from 1941 to 1943 and a long-time Kennedy advisor. He was not Mr. Kennedy's first choice (Mr. Cox's Harvard colleague Paul Freund turned it down), but he is an excellent one.

Neither was Professor Walter Heller an initial choice as Chairman of the Council of Economic Advisers. Paul Samuelson of MIT had declined the post, perhaps with the thought that he would have Mr. Kennedy's friendly attention anyway, without having to trade the more lucrative and leisurely academic life for the ardors of Washington bureaucracy. Professor Heller is an economist who is both academically respectable and receptive to new ideas. He is said to favor abolition of many of the tax loopholes discussed in this issue. He has certain interesting ideas for administratively varying tax rates to serve broad national objectives. Known through most of his career for a Keynesian emphasis on private consumption, he has moved during recent years in the general direction of the Galbraith emphasis on public investment. Long attached to the University of Minnesota, he likewise satisfies the final requirement that someone come from somewhere other than Harvard.

The Old Frontiersman

After bidding a sad farewell to Ezra Taft Benson, the American Farm Bureau Federation at its post-election annual convention in Denver greeted the news of Orville Freeman's choice as Secretary of Agriculture with the cold remark of its President, Charles B. Shuman, that the Bureau realizes Freeman's inexperience in agriculture and will cooperate with him while he learns his job. The delegates then turned from approving the employment of children as young as 11 years under certain conditions, to urging each member to participate actively in church affairs.

The Bureau is against federal regulation of migrant labor and minimum-wage increases, but is for federal and state right-to-work laws. It favors restricting the scope of collective bargaining to one employer and his own employees (which would completely fragment labor unions), but it opposes extending Social Security to include medical care for the aged, or legislation to aid depressed areas, or federal aid to schools. And it is of the opinion that cities should clean up their own pollution, without outside help.

It would forbid the Supreme Court to change any "long-established interpretations of the Constitution," but it would grant all coastal states the ownership of seabottom minerals out to 10.5 miles from their shores.

The Farm Bureau is, of course, against the Democratic farm program in toto. For that matter, name it, and if it is in the Democratic platform, the Bureau is probably against it. And that is no small matter. The Bureau has a membership of 1.6 million – more than the combined memberships of the two other national farm organizations (The National Grange and The Farmers' Union). Officials of the Bureau point out that on agricultural policy it successfully managed a coalition between the Republican House members and up to 100 Southern Democrats, and that more Congressional foes than friends of the Bureau were retired to private life in the last election.

Picking Up the Check

The new Administration has promised to study the entire structure of federal revenues and to plug some of the tax loopholes. Some of the changes that may be involved are discussed on pages 11 and 12 of this issue. But in addition and as part of that re-examination, thought might be given once again to a potential but largely untapped source of revenue about which much has been said (particularly during the Eisenhower era), but little has been done. We refer to federal charges for at least part of federal services rendered. Examples of "free-loading" are numerous.

By long tradition, both navigation and flood-control improvements carried out by the federal government and paid for by all the taxpayers are freely used by a relatively few of those taxpayers. Likewise, the capital cost and operating expense of the airways are "free" to the airlines. Radio and TV licensees have piled up fortunes almost wholly represented by the values of the federal licensees to use channels ostensibly owned by the people; when such stations change hands, something like 10 percent or so of the purchase price is usually for equipment; the rest is for "goodwill" representing the value of the privilege of reaching "free" thousands or millions of people.

Local communities pay little or nothing for a great many federally-subsidized improvements. No wonder the "pork barrel" is so popular, and that Congressmen cooperate to push through district and state projects, prodded by Chambers of Commerce that simultaneously cry out against rising federal expenditures.

In its early days, the present Administration put up its dukes against some of the more inordinate log-rolling. There was, for instance, the proposal by the Army Engineers to deepen the Delaware River above Philadelphia to help out US Steel. The company had built

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its big Fairless works near tidewater, to import Venezuelan ore in its big freighters that were especially built in Japan. But the river was too shallow and the ore had to be transhipped, thus depriving Big Steel of much of the benefit of its thoughtful cost-cutting arrangement. So the Engineers proposed to deepen the channel to 40 feet, and the Eisenhower Administration suggested to Congress that precedent be broken, and the company bear part of the cost.

All the commercial, political, industrial, gubernatorial, Congressional and press interests of the entire Mideast rose up in wrath. The proposal was easily beaten down in Congress; the people are paying the whole $100 million bill to the benefit of US Steel. The Administration never again was so bold.

Air Traffic Control

As one searches among the wreckage of the ghastly collision over New York Harbor on December 16 of two airliners, looking for clues to the mystery of why this sort of catastrophe, in which 128 passengers lost their lives, happens, what seems least controvertible is that the mounting problems of air traffic control in a jet age have been met with too little sense of urgency. Thus, there has been too much dawdling in getting a top flight light system on the approach to LaGuardia's runway 22. There have been two crashes on the unlighted approach; a stublight system soon will go in, but the full system will be delayed three to five years while the Army Corps of Engineers makes its studies and approves final plans. Operations from March to November of 1960 at La Guardia were only marginally safe, indeed, some thought them excessively dangerous; one of the two main runways was closed for repairs during those months. Likewise, a good case could have been made for grounding all *Electras* after the first incident, where a wing fell off. The second time it happened, the whole fleet probably should have been kept out of the air – not just slowed in speed.

The entire development of a modern air traffic control system and associated devices has been sluggish. A special committee on air traffic control, the Curtis Committee, reported to Mr. Eisenhower some time ago its as yet unheeded view that air navigation in the future be handled on an area basis, rather than on a point to point system – navigating from radio fix to radio fix. Air traffic control in an area system could set up any one of numberless courses for a plane to fly. Point to point navigation limits the routes. In this same connection, "crash" programs to develop 3-D radar and airborne collision-warning devices are long overdue.

There is also need of better pay for air traffic controllers and more allotments so that better men can be attracted to the profession and more of them can be hired. There is need of greater precaution against possible sabotage of planes. Why should there not be spot checks of baggage and signs announcing that fact? And we have dawdled also with the problem of making planes better able to stay together in crashes. Seats are too loosely attached to the floors; seat belts are too lightly moored.

The responsibility for needed improvements and the sense of urgency they require is, of course, one that is shared by a great many local and national officials, but the particular responsibility is that of the Administrator of the Federal Aviation Agency. The present Administrator, Elwood R. Quesada, has been ready to stand up to various segments of the aircraft industry, though he has not always been diplomatic and he may have been tough on the wrong issues and neglected the right ones. He *has* been right, however, in ordering pilots to stay in the cockpit, in handing out fines for infractions of regulations, in cracking down on airline maintenance procedures, in insisting that pilots get medical examinations from certified doctors rather than family physicians, and in enforcing pilot retirement age.

Palmer's Legacy

On January 2, 1920, a series of police raids swept over the country. Within three weeks, *The New Republic* observed "a nation, solid and imperturbable [that] has been wracked by persecution, by cowardice, by distrust. Its great problems are postponed; its great tasks not done; its responsibilities evaded, its house turned to bedlam, the humble oppressed, its ideals flouted, and the light that it held to the oppressed of mankind extinguished."

From Boston to Seattle, from St. Louis to Baltimore, FBI agents and local police forces joined forces to arrest an unusual array of aliens and citizens. Under Woodrow Wilson's Attorney General, A. Mitchell Palmer, Department of Justice agents arrested more suspects than the jails could hold. The beauty of the January 2 raids was to be their simultaneous national character and the vast numbers of "Bolsheviks" or their sympathizers who were to be caught in the dragnet. With one fell swoop, conspiratorial cells were to be destroyed and radical ideas exorcised.

The sorties began early in the evening and continued for weeks. Under specific orders from Washington, agents invaded homes, meeting halls, night schools, restaurants and printing plants. Agents were so zealous that they not only arrested everyone found on the premises, but casual pedestrians on the sidewalks and those who stepped out of their homes – often in slippers – to see what was going on. The jailing of thousands of

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people was, surprisingly, the easiest part of the assignment for little resistance was encountered. But it soon became apparent that even the combined facilities of municipal and federal jails were inadequate to house Mr. Palmer's haul. The dragnet picked up high school girls, decorated veterans, native-born citizens, teachers working in the night schools and a host of individuals who had not the remotest connection with either Bolshevism or aliens. When the Department of Justice finally winnowed the catch, there were very few fish left – and those very small. It had incarcerated about 7,000 people, an astronomical figure even by today's calculations. But as the deportation proceedings continued most of the aliens were released (few could make the unusually high bails). The government failed to prove its case. From the viewpoint of law, morality or just common sense the raids were farcical; deportations were few. The Department of Justice stood accused of brain washing, witch hunting, sadism and mass illegality. Yet the Republic survived; the light was not extinguished, and in that same year the American Civil Liberties Union came into being. Mr. Palmer was in large part responsible for that too, and though his raids are now ancient history, the ACLU is not. The Union has just issued its annual report, bringing to a close 40 glorious years of active service in defense of that "fierce spirit of liberty," which Burke once proclaimed as America's chief characteristic.

Congress and the President

by John Morton Blum

Almost half a century ago, Woodrow Wilson, meditating about the problems he would face following his inauguration as President, toyed briefly with the idea of government by progressives only. He had won election with only a minority of the popular vote, but the people had returned a vigorous majority for reform. The Democrats, Theodore Roosevelt's Progressives, and the Socialists had swamped Taft's Republicans in their wake.

Wilson recognized the mandate for change, but his party, then as now, contained strong conservatives as well as reformist elements. So he contemplated the construction of a progressive coalition. He abandoned that thought, however, turned instead to his own party, and guided its Congressional members to the rapid completion of an extraordinary agenda of reform.

What now of John F. Kennedy, who knows his history well, knows politics and his Congress better, and enters office with no mandate but the mandate he chooses to define?

Presidents have ordinarily fared less well than Wilson did. William Toward Taft, for one, entered office in 1909 with a comfortable majority and a personal commitment to moderate action. In the ensuing months, his commitment faltered and his majority disappeared. The occasions of his failure were clear at the time. Progressives in the House of Representatives elected with him, Republicans and Democrats alike, were prepared to attack the power of Speaker Joe Cannon of Illinois, a reactionary Republican whose parliamentary authority, like that of today's Rules Committee, impeded the possibility of reform. But Taft, on the advice of TR, decided not to enlist with the insurgents. While their plan aborted, he chose to tolerate Cannon in the expectation of reciprocal cooperation from the Republican leadership. That leadership, however, seized and held the initiative during a long debate on tariff and tax laws that resulted in raising tariff schedules rather than reducing them, and in blocking the enactment of progressive revenue legislation. Yet it was not Speaker Cannon or his authority that really mattered. The damage to Taft's hopes and reputation was done in the Senate where the Old Guard fashioned the Republican program. Taft permitted that development. He did not use the power or prestige of his office until the major issues had been resolved, until his party had fallen apart over internal differences, until his Administration had been wrecked by right-wing intransigence. Taft failed because he would not function as a strong President. Viewing his office as Dwight Eisenhower later did, he employed none of the techniques that both Roosevelts made the basis for their success.

Like Taft, Wilson chose to work through his party, but like the Roosevelts, Wilson made the Presidency

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the fount of power in party and in government. Wilson launched his program for tariff revision by addressing Congress in person. This was a dramatic innovation – no President since Jefferson had appeared on the Hill as his own spokesman. When Democratic protectionists allied with their Republican brethren to resist the President, Wilson appealed directly to the people, warning them against insidious lobbies and corrupting Congressional self-interest. Progressive legislators exploited the resulting publicity to expose those Senators who had been voting to enhance their private gain. The President's measure passed.

Turning then to the reconstruction of the nation's banking system, Wilson worked out the compromises that held liberal and conservative Democrats together. He again appealed to the people – this time to warn them against the alleged iniquities of Wall Street, and again achieved his goal. Yet in securing the success of both bills, less dramatic operations were doubtless more important. Wilson's Postmaster General, a professional Democrat uninhibited by ideology, never let the Democrats in Congress forget the rewards for loyalty and the penalties for apostasy. He and others like him kept the party in line. Wilson, moreover, demonstrated a sure sense of timing, a talent for balancing conflicting regional or economic interests within his own broad program, and a facility for adapting his point of view to influential and reasonable forces within the legislature. Though a minority President, he was also a strong President who commanded his party and, through it, national policy.

The lessons for 1961 are plain to see. John F. Kennedy comes to the White House with a popular vote that suggests only ambiguity. He lacks the clear personal and party mandate that assisted Franklin Roosevelt in 1933 and 1937. The voters have not indicated the pervasive desire for change that informed Wilson's inauguration in 1913. But Kennedy's vistas are no less open on that account.

Like Taft in 1909, Kennedy will have to decide whether to enlist with these insurgents who consider reform of the Congress the first order of business. The Rules Committee of the House, its authority comparable to that of Joe Cannon years ago, can throw roadblocks across the avenue of action. So, too, can sour, senior Democrats who hold major committee chairmanships in the Senate. And so can the Senate's paleolithic rules of debate. Yet any Presidential assault on those entrenchments of the *status quo* might be a dangerous diversion. It would gain Kennedy the uncertain aid of Javits and Cooper and Case, but this asset could come only at large risk. To venture first to reform the machinery of Congress, to rely thereby on government by progressive coalition, would alienate a significant minority of the Democratic Party and a majority of its most skillful parliamentarians. It would also offend those influential Senators who believe the strange habits of their chamber to be rather more significant than the cold war itself. It would postpone, perhaps indefinitely, necessary action on many pressing issues – among others, foreign aid, old age assistance, medical insurance, minimum wages, urban renewal, education, the reorganization of the armed services, and tax reform. These are the issues on which national strength and national reputation depend. So persuaded, Kennedy has cultivated the masters of the Hill, rather than attacking them. He has encouraged Rayburn and Mansfield and Johnson, of course, to identify themselves with the very objectives he wishes to effect.

This is no sign of weakness or withdrawal. Theodore Roosevelt urged his successor to suffer Cannon gallantly (though not gladly) because Roosevelt believed a strong President could dominate government in spite of the rules of Congress. It was not those rules, but softness in the White House, that hamstrung Taft. It was not parliamentary process, but Presidential power, that took Wilson to his summit. Kennedy, to be sure, can not much dramatize his policies by addressing Congress in person or damning Wall Street to the press – those tactics are no longer novel nor in themselves notably useful. Patronage, moreover, is not the bludgeon it used to be, though neither are Congressmen averse to recognition and favor. But Kennedy can take the initiative, and the blandness of his public remarks, his deference to "Mr. Sam," his careful politeness to former colleagues, will make the initiative not less but more his own. He can mobilize the powers of his office, use its incomparable platform to air his views and thus to spread them, demand the tough, hard work on large planning and detail that only the executive establishment can undertake, the work so long neglected. He can make decisions, he can be informed, he can break the futile bonds of banal reassurances, he can escape the darkness of wilfull blindness. He can also direct the course of necessary compromise and adjustment, and keep his influence active on the Hill. He can set priorities, measure pace, bring into accord diverse sectional, political, and economic factions. He can, in short, be President. And if that is his purpose, as it seems to be, he will make his party the agent of his program and make his office the center of party and government.

That was the accomplishment of his successful Democratic predecessors. To that end, the Kennedy organization, so often so severely criticized, is precisely machined. And most important, the modern Presidency, with its demands and specifications, conforms to Kennedy's style – not flamboyant, not transcendental, not tendentious; but confident, calculated, determined, industrious, perseverant. The trials to the new frontiers are open; the new President need only lead the march.

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THE MEANING OF MOVING FORWARD – VI

Tax Reform

If the President-elect is to carry out his programs – and to do so, as pledged during the campaign, short of deficit financing in the absence of a national emergency or a "severe recession" – a bold reassessment of tax reform is called for. But how bold can reform be in this most politically sensitive area? On the one hand, plugging loopholes left by inequitable exemptions, deductions and preferences (which one expert estimates would yield $14 billion more in revenue) would raise a storm of protest from every affected interest. And fundamental reform striking at the nature of the tax system, on the other hand, runs into even more granite, built-in resistance.

Both for reasons of equity and of politics, the case for fundamental change seems to us impressive. One proposal for the replacement of the income tax by a new system of taxation based upon personal expenditures instead of personal incomes will be spelled out in detail in these pages next week. The author, Washington tax authority Matthew J. Kust, offers powerful arguments to support his view that an expenditures tax could best help finance our national and international objectives in the decade ahead. Recognizing, however, that the prospects for fundamental reform are problematical, let us consider what might be done within the limits of the present structure.

The President-elect emphasized two specific possibilities during the campaign. He pledged a review of the so-called depletion allowance granted to the petroleum and mining industries, and he indicated that he leaned to faster writeoffs against the depreciation of plant and equipment to promote new investment and thus to stimulate economic growth.

Much has been written about the tax windfall given to the petroleum industry by the depletion allowance, providing, as it does, for the exclusion of 27.5 percent of gross profits from taxation irrespective of the amount of investment. This tax advantage should be eliminated. In its stead, the depletion of petroleum and mineral rights should be placed on what is called a "cost recovery" basis, that is, permitting a deduction under the income tax merely for the amount of investment rather than a deduction of a percentage of the gross profits. This would yield, by conservative estimates, $200 million more federal revenue.

While an across-the-board depreciation allowance covering all new investment (as sought by the steel and other industry lobbies) is highly questionable in view of the fact that virtually every industry is faced with overcapacity, a relatively restricted depreciation allowance designed specifically to stimulate the replacement of obsolescent machinery and equipment (of which there is an estimated $96 billion worth) would help to foster technological progress and for this limited reason would seem desirable. (It is interesting that a recent Treasury Department survey shows that a majority of US firms have actually declined to avail themselves of the liberal depreciation provisions in the existing law. Whether this is due to the fact that they declined faster write-offs or for other reasons has not been clearly established.)

Some features of the present income tax which, if eliminated, would increase revenues are such exclusions from and credits against taxable income as the following:

1. The exemption of interest on municipal bonds. (Plugging this loophole would yield an estimated $330 million annually. While this exemption may make it easier for states and municipalities to finance their operations, it also creates social monstrosities. Inconceivable as it may sound, an American can inherit a trust fund of $2 million invested in municipal bonds, yielding an income of $100,000 at today's rates, completely tax free. There are, and have been for many years, such privileged funds in our midst.);

2. The exclusion of the first $50 of dividends from corporate stocks and the deduction of four percent of excess over $50 ($500 million);

3. Capital gains transferred by gift or bequest which now escape tax ($1.5 billion);

4. Interest on savings accumulated on life insurance policies ($350 million);

5. The tax advantage accorded to homeowners – as against renters – which allows the owner to deduct mortgage interest and property taxes while the renter is not permitted to deduct rental payments. (If the homeowner were required to report as income the rental value of his home, as is the case in most Commonwealth countries, the yield might reach $1.2 billion.);

6. Transfer payments and wage supplements such as Social Security payments, unemployment relief and sick and veteran benefits. (These exclusions – $2 billion – benefit primarily the wealthy taxpayer who happens to be a recipient of, say, Social Security, for the recipient

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actually subsisting on this income would in most cases receive it free of tax under his personal exemption.);

7. The partial exemption of retirement income such as annuities ($100 million).

Personal deductions from taxable income which, if disallowed or restricted, would increase revenues, include the following:

1. Interest on personal loans and home mortgages ($1.2 billion);
2. State and local taxes ($1.2 billion);
3. Charitable contributions ($1 billion);
4. Casualty losses due to fire, theft or accident ($50 million);
5. The 10 percent standard deduction ($2 billion).

There are also extraordinary personal exemptions such as those for the aged, and for children earning income, which, if eliminated, would together yield $500 million. And tighter collection procedures, notably the withholding in advance by banks and corporations of taxes due on interest and dividends, would add at least $1 billion to the Treasury.

The capital gains preference under which a profit from the sale of property, stocks, securities and other assets are taxed at a rate not exceeding 25 percent (ordinary income is taxed at rates as high as 91 percent), is not only inequitable but has led to countless efforts to convert ordinary income to capital gains – thus narrowing the tax base. The exemption for stock options (permitting an employee to buy stock at a discount and pay capital gains instead of an ordinary tax on the profit) is an example of gross inequity. The so-called "collapsible corporation" (*i.e.* a corporation organized solely so that income actually earned for personal services can be taxed at capital gains rates) is a blatant device for disguising ordinary income. There are few lawyers in the country who understand fully the provisions in the Revenue Code on collapsible corporations.

Then there is the perplexing question of the taxation of corporations. Any sophisticated economist realizes that a business organization as a legal entity does not actually bear the ultimate incidence of a tax. The tax burden is eventually borne by the individuals involved – the consumers, employees and stockholders – but it defies analysis to determine how the present corporate income tax is distributed among the three groups. In the final analysis the ultimate incidence is probably determined by the vicissitudes of the business cycle. It is probably safe to say that during most of the postwar period, characterized by a shortage of goods, the tax was passed on to the consumer. Perhaps it would be better to recognize this forthrightly and impose a general manufacturers excise tax of comparable revenue yield with the clear intent that it be passed on to the consumer.

There can be little doubt that the corporate income tax has profound effects upon our foreign economic affairs. This tax is a formidable deterrent to American private investment and technical assistance to the underdeveloped countries, for it operates to negate tax incentives to American business by these countries. Since, as we have indicated, the tax is probably passed on to the consumer, it is a factor adding to the high price of American goods. Loss of competitive position is in large measure responsible for the deterioration of our export surplus – an important component in our worsening balance of payments and loss of gold. A general manufacturers excise tax, customarily waived for exports, would go far in ameliorating these two undesirable influences of the corporate income tax on our foreign trade and investment.

Moreover, taxing corporations on a net income basis on the premise that the corporation bears the tax probably brings forth a host of problems which may even outweigh the facility of using the corporation to exact more revenues from individuals. Thus, depreciation allowances affect the investment policies of corporations. And corporate organization and reorganization are greatly affected by the income tax. Indeed, hardly a corporate decision of any consequence can be made without consideration of the income tax consequences, often distorting business judgment and impairing commercial effectiveness.

The effectiveness of gift and estate taxation has been greatly undermined by the marital deduction, charitable exemptions and other preference provisions. The operation of these taxes should be re-examined, since an effective taxation of the devolution of wealth is highly conducive to the regenerative growth of our economy. The Kennedy Administration should consider repealing the marital deduction enacted by the 80th Congress in 1948, which would almost double the revenue yield of these taxes. In addition some consideration should be given to restriction of the charitable exemption: The tax free wealth and income being accumulated by foundations in this country leads to great social benefits but theoretically, at least, holds possible dangers.

Finally, the growing problem of state and local taxation should be given consideration on a national scale. The growing need for revenues is causing states to reach beyond their respective jurisdictions resulting in double taxation of interstate business. The Senate Select Committee on Small Business held hearings on certain aspects of this disturbing problem during the last Congress and passed some interim legislation, but the new Administration should continue this study with the view of devising federal regulatory legislation which would define the rights of the respective states to tax transactions and income earned in interstate commerce. In the last analysis, only the federal government can resolve these differences.

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WHAT SIZE PIE, WHAT KIND, HOW IS IT TO BE SLICED?

With this article, Stanley H. Ruttenberg concludes the New Republic's *series on economic growth which opened last June with essays by Professor William R. Allen and* New York Times *economic reporter Edwin L. Dale, Jr. Contributors to the discussion included Leon Keyserling, Professor James Tobin, Oscar Gass, Senator Paul Douglas and Howard Shuman and George W. Cloos. Mr. Ruttenberg, Director of the Department of Research of the AFL-CIO, is an economist who believes our economic need is primarily to assure a "rising number of customers with a rising ability to buy" what the country is capable of producing.*

The Slow-Down of Customers

by Stanley H. Ruttenberg

As an earlier, excellent article by Sen. Paul Douglas and Howard Shuman pointed out, today's economic issues "may seem abstract" but "they are at the heart of politics in 1960." Certainly the three expert analyses by Dr. James Tobin, Leon Keyserling and Senator Douglas and Howard Shuman are major contributions to public understanding. They leave very little unsaid. Yet sometimes economics' technicalities may obscure what economists, but not others, take for granted.

What we are seeking, after all, is the right way to meet America's need for a bigger and better economy in the 1960's. Economists are analyzing the best way to achieve a growth rate rapid and healthy enough to satisfy the nation's expanding responsibilities at home and abroad. While we may, as economists, need to emphasize the possibility of achieving a specific percentage goal, that percentage in itself is less important than the necessity to keep the economy functioning smoothly. The problem of serious moment yesterday, today and probably tomorrow is the danger of unused resources within the national economy. We may need a 6 percent growth rate, instead of a 3 or a 4.5 percent rate. But our major problem is to use everything we have to achieve the best growth rate possible.

There are apparently three major schools of thought, and they do not really entirely divide themselves politically as much as the surface debate would imply. First, there are the "stand-patters" who see no problem of economic growth facing the nation, who assume the continuance of and the sufficiency of an historical over-all 3 percent growth trend. Unworried by recent 2.5 percent rates, mass unemployment or unused capacity, unruffled by the prospects of continued growth interruptions from downswings in the business cycle, they would do nothing; what was good enough for their grandfathers is good enough for them, regardless of the shifting technological society. Since their grandfathers paid lower taxes, they would lower business taxes and high-income taxes. Otherwise, they suggest very little be done anywhere.

Secondly, there is a group which feels that the prospects for economic growth depend upon some artificial or forced means of affecting the economy. Oddly enough, Dr. Tobin's initial statement summarizes this point of view: "The overriding issue of political economy in the 1960's is how to allocate the national output. How much to private consumption? How much for private investment in plant and equipment? For government investment and public services? For national defense? For foreign aid and overseas investment?" This group, in turn, divides into three subgroups: many political conservatives and business economists insist we need only to allocate more to private investment so that we can achieve more growth, and that "business incentive" taxes would solve our problems; private and public consumption must be suppressed. The Galbraithian group believes that we need to allocate more to public investment and consumption, but that private consumption must be suppressed, possibly through sales taxes. Dr. Tobin's analysis would combine the two and give more emphasis to both private and public investment and also to public consumption, suppressing private consumption through rearranged tax policies. These three subgroups, however different their over-all political views, share the belief that private consumption must be suppressed and that growth

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must be "forced" or spurred through regressive tax policies of one kind or another.

The third broad major group (which includes Senator Douglas and Leon Keyserling, and most of us who follow what is generally associated with the current liberal Democratic viewpoint) follows what I would call the "natural" or "spontaneous growth" point of view. In essence, this group believes that by correcting some inequities and imbalances in the economy, by encouraging full use of capacity and manpower, by meeting America's public service needs, the various segments of the economy may well shift slightly of their own momentum, and the growth rate over-all will naturally come to 4.5 or 5 percent. As the Douglas-Shuman article expressed it: "If and when (their projected goal of 4.5 percent) is reached, we can then see whether a still further increase is possible at the price we wish to pay." At that point, when manpower and productive capacity are used more efficiently than now, when the growth momentum has generated all that it can of its own volition, and if more is needed, I am sure that the "spontaneous" or "natural" school would be in favor of adopting, if the circumstances demanded it, some "forced growth" policies for spurring business investment or for suppressing consumption through various tax changes.

In the meantime, however, it seems particularly important to discuss the dangers of the "suppression of consumption" school of thought, the dangers of "forced growth" at this time. As both the Keyserling and the Shuman-Douglas articles explained so well, there is high unemployment, there is unused capacity, there are poverty stricken segments of our society. To ignore such realities and reallocate the shares of the gross national product is to perpetuate some of the problems we have had for many years and to create worse problems in future downswings in the business cycle. The real need is to generate a better meshing of our ability to produce and our ability to consume, to have monetary, fiscal and other policies designed to foster a smooth rate of growth. *Federal spending programs for public needs are essential but, alone, are not enough.*

No suppression of consumption is going to make any less wide the growing gap between the ability to produce goods and the ability to consume that production. No forced allocations through taxation will solve the unemployment incident to this gap. To assume that shifts from private consumption to private investment will do more than intensify these problems is to deny recent history. To assume that shifts from private consumption to the public sector will narrow the gap is to assume that our economy cannot work in its present political form or that we actually have enough production for private use at this point. We do not.

The point both the Keyserling and the Douglas-Shuman articles made, therefore, which requires further underlining is that *consumption has already been suppressed.* Business expansion has fallen off not as a result of discouragement from tax policies, but from the failures to find buyers for what could be produced. Tax incentives were given in 1954. Business spending or private investment has been encouraged in every way except the way most essential for practical encouragement – the assurance of a rising number of customers with a rising ability to buy.

True, the policies pursued have not been specifically designed to cut consumption, but to do the reverse – to encourage business spending. But the fact remains that consumer incomes have increased at a decelerating rate; the highest in history, it is true, but the average yearly rise from 1952-1956 for consumer buying power (per capita after-tax personal income) amounting to 2.4 percent has been slowed to an average yearly rise of 1.2 percent since 1956.

It is this slow-down of potential customers, along with inadequate federal spending, which slows down business spending for new plant, for that "growth" through private investment. A lack of customers, not a lack of tax incentives, is the reason for the current slow-down in spending for new plant and equipment. True, the business tax incentives can produce a temporary boom as in 1955-57, but the failure of customers eventually takes away the boom's forward growth gains when recession causes a minus rather than a plus change in annual growth rates.

Another point, which is at least obscured even in the Douglas-Shuman analysis, is that there are many groups in need of greater incomes for better living standards. The need is not restricted to the poverty-stricken millions whose incomes are below $3,000 or $4,000 a year. What Keyserling calls "private poverty" is a disgrace. But at the same time, there is a real need for increasing, and not leveling, the standard of living of millions of other Americans. The implication that wage earners are "affluent" was surely not Mr. Galbraith's intention when he sought to describe in new form the "economics of abundance." Wage earners are better off, but the wage earners' income has also slowed its rate increase in recent years. *Consumption by American workers is being suppressed.* The buying power of factory workers' average weekly earnings has declined from its 1952-56 average yearly rise of 3.5 percent to an average yearly rise of 1.2 percent since 1956. That slow-down is dangerous and must not be denied by those who are concerned with growth.

Growth, in fact, should not mean a cut in the living standard of the middle-income group for the benefit of the lower-income group. Our object is steady improvement for all sectors of the economy and all parts of the population.

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ROBERT F. KENNEDY

The Case Against Him for Attorney General

by Alexander M. Bickel

All the world knows that the Attorney General-designate is the President-elect's brother, and practically all the world has feelings of one sort or another on that aspect of the nomination. But such feelings do not in the end come to anything decisive. Nor does a widespread but rather generalized distrust of Robert F. Kennedy – which, it may be said in passing, was hardly alleviated by the reported remark of his father that Robert is a good hater. The difficulty with the nomination, having regard to the nature of the office of Attorney General, is that in his brief but highly visible professional career, Mr. Kennedy has demonstrated specific grounds of disqualification. This is not to raise a question of professional competence. Nor in the strict sense is this a charge of prior professional misconduct. Mr. Kennedy did not violate the letter of any law or canon of legal ethics. But the law and the canons of professional ethics prescribe the minimum standards only. More is required of the Attorney General of the United States, who is a keeper of the executive conscience.

Robert F. Kennedy was chief counsel for some three years to the Senate Select Committee on Improper Activities in the Labor or Management Field. This Committee, under the chairmanship of Sen. John L. McClellan of Arkansas, investigated labor union corruption, violence, "underworld infiltration" and the like. It brought to public notice some exceedingly disagreeable persons and situations, and its work led eventually to the enactment of a significant new statute, the Landrum-Griffin Act. Thus, the Committee was quite a success, as these committees go. Nevertheless, with Mr. Kennedy in the lead, it embarked also on a number of purely punitive expeditions. In doing so, it gravely abused its powers. We have, sadly, become accustomed to such abuses, and in this instance there was not much of an outcry. The voice of indignation was almost inaudible, having been rendered hoarse in the efforts to shout down McCarthyism – which is the same thing in wolf's clothing. Moreover, for complex reasons touching the proper relationship between the judicial and legislative branches, these abuses are not illegal. There is no remedy in court against them. They are abuses nonetheless, and they subvert the integrity of the administration of justice. It is necessary to review at least two episodes, chosen pretty much at random out of dozens, in order to begin an assessment of Mr. Kennedy's performance.

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THE GLIMCO CASE. On April 24, 1958, announcing that he was investigating, among other things, "hoodlum penetration of certain labor unions," chief counsel Kennedy brought to the stand one Joseph P. Glimco. (He referred to him as "Joey" – and why doesn't some sociologist make a study of the different but always potent connotations that attach to the use of nicknames in varying contexts?) Glimco, who was accompanied by counsel and wasn't saying a thing, was president of Local 777 of the Teamsters in Chicago, and Mr. Kennedy wanted all his business and personal records, and in fact got some or most.

On March 11, the Glimco hearings started in earnest. Mr. Kennedy called one of his staff investigators, and through him made public Glimco's long record of arrests without significant convictions. Then Mr. Kennedy asked: "Would you give the committee the names of some of the people whom he counts as his associates and who have been seen in his company? You have examined the reports. He has been seen in their company, and it has been documented that he is an associate of these people?" There followed a goodly company fully equipped with such nicknames as "The Waiter," "Little New York," and "Cherry Nose." Some were allowed to remain identified by their nicknames only. Others were further placed as "another member of the Chicago syndicate," or "a close associate of Mr. Hoffa." Mr. Kennedy's investigator then related Glimco's indictment in 1954 for extortion in the Chicago Fulton Street poultry market and his acquittal under suspicious circumstances: the witnesses who had testified against him before the grand jury recanted at the trial.

Next, through witnesses as well as documentary evidence offered and explained by his own investigators, Mr. Kennedy built up a record tending to show that

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Glimco had absolute dominion over his local; that he received kickbacks from its officers and otherwise milked its treasury; that he used his power to run a number of extortion rackets; and that, though a married man, he had an affair with his secretary, which he financed with union money. I say that the evidence "tended to show" all this. That is a judgment, and it means that a jury or another reader might or might not have seen it the same way. How it would have stood the test of cross-examination nobody can know.

On March 12, Glimco himself was recalled to the stand. Starting with the very first question, which dealt with his acquisition of American citizenship, he pleaded the Fifth Amendment: "I respectfully decline to answer because I honestly believe my answer might tend to incriminate me." Chief Counsel Kennedy then began putting to Glimco, question by question and in some considerable detail, what the record that I have referred to above tended to show. Glimco pleaded the Fifth all along. Mr. Kennedy also put to Glimco, here and there, what was merely suspicion, surmise or opinion:

"Then when you were indicted . . . you used these kind of contacts ["The Waiter," "Little New York"] in order to intimidate the witnesses and get them to change their story?"

"I respectfully decline. . . ."

"You got your citizenship and abused it; did you not?"

"I respectfully. . . ."

"Did you ever do anything to help the union membership, one thing?"

"You don't care anything about yourself and these other people who are gangsters and hoodlums, do you?"

"And you defraud the union. . . .?

"*Mr. Glimco:* I respectfully decline to answer because I honestly believe my answer might tend to incriminate me."

"*Mr. Kennedy:* I would agree with you."

"*The Chairman:* I believe it would."

"*Mr. Kennedy:* You haven't got the guts to [answer], have you, Mr. Glimco?"

"I respectfully decline. . . ."

"*The Chairman:* Morally you are kind of yellow inside, are you not? That is the truth about it?"

"I respectfully. . . ."

A Perfectly Straight Face

The Beck Case. This was the younger Kennedy's earliest triumph. By March 26, 1957, evidence had been collected tending to show that Dave Beck, president of the Teamsters' Union, had misappropriated some $320,000 of union monies to his personal use. Now Beck was on the stand, and he was pleading the Fifth Amendment. Beck was a very big fish, and the Senators themselves, not excluding the late Joseph R. McCarthy in somewhat subdued form, each had their go at him. When Beck returned the next day, Chief Counsel Kennedy put to him what the committee's evidence tended to show. Beck kept pleading the Fifth Amendment formula, and Mr. Kennedy kept asking him whether he really felt that a truthful answer might incriminate him. Did Beck have enough guilty knowledge of the money in question, Mr. Kennedy pursued, to be justified in feeling that a truthful answer would incriminate him? A plea of the Fifth Amendment allows no room for denying this inference. All Beck was at liberty to say was that, yes, he felt an answer might incriminate him. "I feel the same way," said Mr. Kennedy, underscoring the inference with all the power at his command. As the session dragged on, Chairman McClellan interrupted to say that he had "conferred with chief counsel with respect to some other matters that this witness should be interrogated about. It is anticipated that we will get the same kind of response that we have been getting. But just so the public will know that there is more, and yet more, I am going to indulge this session a little longer so that counsel may ask some of these very pertinent questions and let the witness continue to take the Fifth Amendment."

On May 2, Beck was indicted for income tax evasion. On May 8, he was recalled by the McClellan Committee. His new counsel, Edward Bennett Williams, asked that Beck's appearance be deferred until after his trial. He pointed out that almost any question having to do with Beck's financial affairs would be germane to the subject matter of the indictment, and that Beck would be put to the cruel choice of helping the government win its criminal case against him either by giving it a preview of his defense or by enabling it to draw unfavorable inferences from a repeated plea of the Fifth Amendment. Moreover, as a federal court had recently pointed out, by proceeding at this time with full publicity, the Committee would effectively preclude selection of an impartial jury for Beck's trial; prospective jurors, after all, could scarcely escape hearing from one source or another what a bad man Beck was. If the Committee insisted on proceeding, Williams concluded, he would make the best of a very bad choice by advising Beck to take the Fifth.

The Committee, whose staff had counted up and made public the number of Beck's previous pleas – 117 – insisted on proceeding. On May 16, it recalled Beck once more. Now chief counsel Kennedy's staff had prepared and mimeographed a compilation entitled, "Some 52 ways in which Dave Beck misused his authority, position and trust as president of the Western Conference of Teamsters and subsequently as president of the International Brotherhood of Teamsters." Beck was handed a copy, as was the press. Mr. Williams again

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requested that the hearing be deferred until after Beck's trial. But, said Chairman McClellan – and so far as the record indicates, he was wearing his usual, perfectly straight face that day – here was all this derogatory information against Beck, and he ought to have an opportunity to deny or explain it. "I think the committee would be failing in proper courtesy, proper consideration of his rights if it did not extend him the opportunity." In that event, said Mr. Williams, "I want most graciously to decline that courtesy." To no avail. Down Beck's throat went the courtesy, as he pleaded the Fifth Amendment ("I respectfully decline . . . I honestly believe. . . .") to the 52 counts of what was to all intents Chief Counsel Kennedy's verdict against him.

The Power To Destroy

What if anything is wrong with these two cases, and what is their bearing on the qualifications of a nominee for the office of Attorney General of the United States?

To begin with it is obvious that Chief Counsel Kennedy and the committee had and exercised the power, in behalf of the Government of the United States, to destroy or gravely damage people, materially and otherwise. They could not put them in jail, but their "courtesy" could be a deadly weapon. In his book about his experiences (*The Enemy Within*), Mr. Kennedy says that when Dave Beck first took the stand, "I looked at him, and realized that here was a major public figure about to be utterly and completely destroyed before our eyes. . . . I knew . . . that he would have no choice but to plead the Fifth Amendment. . . . It was no contest now. He couldn't or wouldn't fight back." Nor does Mr. Kennedy make light of this power. He remarks elsewhere on the damage that was done to lesser fry. And he candidly – indeed, ingenuously – lays bare the nature of the decision he made at one point not to call Joe Louis to the stand. It was a sort of pardon. "Joe Louis had been one of my heroes when I was a small boy. . . . He has made great contributions to this country. And he has been used . . . by a long list of people. . . . Jimmy Hoffa simply joined that list."

Mr. Kennedy's exercise of the power to destroy or damage individuals was not subject to such safeguards as the right to cross-examination and the right to an impartial judge who is not at the same time also the prosecutor. This is a hard and hazardous and an aberrant thing in our society, but such is the law, and Mr. Kennedy was within it. However, the law of the matter is merely that Congress should have the means to inform itself and the general public of conditions that require remedial legislation, and to do it massively, dramatically and expeditiously, subject to very few, if any, judicially imposed restraints. The summary destruction of the individuals may sometimes be an unavoidable,

and it is always a regrettable, by-product. But it is a by-product only, a necessary evil, to be tolerated, naturally, only when really necessary. The legislative purpose is the exigent thing, and it is left to the conscience and sense of justice of the investigators themselves to decide when the exigent purpose that they serve requires them to hurt an individual without affording him the customary rights and safeguards. The investigative power is abused, though there may be no remedy at law, when its justification is stood on its head, when the sole object becomes the destruction of this or that individual and everything else is by-product, when legislative needs and "courtesies" to the victim come into play only as cynical incantations.

Mr. Kennedy and the McClellan Committee often – though not always – held hearings for the sole purpose of accusing, judging and condemning people. What other purpose can be assigned to the relentless, vindictive battering of a Glimco or a Beck with evidence that was already in the record and to which neither was adding one iota? Mr. Kennedy, who is sensitive to this point, says in his book that, after all, a witness might sometime abandon the Fifth Amendment and start answering. No one who had listened to Glimco for two minutes at his first hearing could possibly believe that. And as to Beck, Senator McClellan, as he himself disclosed, quite early gave up any such hope. Besides, what

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is one to make of the way both the Senator and Mr. Kennedy took it upon themselves to denounce Glimco at the end? This was the language of a judge passing sentence, not of legislators looking for facts to guide them in their law-making.

Mr. Kennedy's job was to inform Congress and the public. That was the purpose for which his power was lodged in him. Yet, having produced all the information he could get, and being able to entertain not the glimmer of a hope that he would obtain more from them, Mr. Kennedy undertook his further public hectoring and bullying of Beck and Glimco. In terms of the legitimate ends he was appointed to serve, this was totally useless. Mr. Kennedy's purpose now was to condemn and to punish, to cleanse the labor movement single-handed – not pursuant to legislation, but prior to its enactment. He was not any longer laying the foundation for legislation to be enforced in court, but attempting to render it superfluous. This was abuse of power, and not the less so because only Mr. Kennedy himself and the committee were in a position to prevent it.

Then there is Mr. Kennedy's and the committee's attitude toward one of the few restraints that *are* judicially imposed on Congressional investigations – the Fifth Amendment's guaranty against compulsory self-incrimination. Again Mr. Kennedy was within the law, but just barely. He used against Glimco a good deal of innuendo, based no doubt on what Mr. Kennedy sincerely believed to be true information, but not based on any fact that he vouchsafed to Glimco or to the public. Glimco had been arrested, but arrests are not convictions. And acquittals, however one may suspect they were achieved, are not convictions. Similarly, an association with Little New York Campagna (incidentally, deceased, whoever he may have been) and Cherry Nose Gioe is not much proof of anything. But if this is unprovable innuendo, why did not Glimco say so in his own defense?

Mr. Kennedy knew why not. Because as the law of the Fifth Amendment stands, a witness is not permitted to plead it selectively. If he answers some questions, he loses the Amendment's protection in respect to all other connected ones and must answer them also. And if he wishes to exercise his judgment in the course of a hearing and decide that a given question is so remotely connected to other ones that he should answer it, he does so at his peril. Hence such exchanges as:

"When did you become an American citizen?"

"I respectfully decline. . . ."

Or,

"Will you tell us today where we may be able to locate your son, Dave Beck, Jr. . . .?"

"I decline to answer. . . ."

Thus it is possible to give rise to an inference of guilt even where a man is wholly innocent, or even when the question itself, until it received the sinister Fifth Amendment gloss, was wholly innocuous.

Governments Can Be Wrong

Mr. Kennedy is sensitive to this point, also. This, he says in his book, "is where abuses creep in," and he instances a glaring one, of the when-did-you-stop-beating-your-wife variety, committed by a Republican member of the committee, Sen. Carl T. Curtis of Nebraska. But Mr. Kennedy seems unaware that he himself did exactly the same thing to the wretched Glimco. Moreover, the ultimate source of this abuse is the notion that a plea of the Fifth Amendment is equivalent to an admission of guilt. (Of course, it isn't, or at least not nearly always; we are talking about situations in which the law fairly forces the plea in innocent circumstances.) Yet no one since the late Joseph R. McCarthy has done more than Mr. Kennedy to foster the impression that the plea of self-incrimination is tantamount to a confession of guilt. It was customary for him to press a witness time and again to repeat that he honestly, yes, *honestly* believed that an answer might incriminate him, yes, *incriminate* him, and then to buttress the inference of guilt by adding the words, well, I agree with you.

The sum of it all is that Mr. Kennedy appears to find congenial the role of prosecutor, judge and jury, all consolidated in his one efficient person. At any rate, we know that he played it lustily when no extrinsic restraint prevented. There is no warrant whatever for impugning his motives. No doubt he sought to serve the public interest as he saw it. The question is merely how truly he sees it. And the answer on the record is that he has tunnel vision; he sees the public interest in terms of ends with little appreciation of the significance of means. Mr. Kennedy, performing the thoroughly legitimate functions of a legislative investigation was able to convince himself that Beck and Glimco and Hoffa *et al.* were very bad men who should be destroyed. It was apparent to him that he was in a position to accomplish their destruction, and so he went ahead and tried. He rather thought that Joe Louis deserved a reprieve, and so he stayed his hand. It never gave him pause that his power had been confided to him for other purposes, and that the inner restraint of this realization was relied upon to preserve the integrity of the intricate and ancient process that our government owes those on whom it visits its punitive force.

The meaning of due process, of the adversary process of accusation and defense before judges disinterested in the immediate outcome, is that the government suffers itself to conceive it possible that it may be wrong. Mr. Kennedy's assured righteousness is in vivid

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contrast. Speaking, in his book, of one of the failures to convict James Hoffa of a crime, Mr. Kennedy allows that as "a citizen or a lawyer" he accepts the finality of a jury acquittal. But here, as with Glimco and as elsewhere, "when I have personal knowledge of the case and feel strongly about the outcome," he can always find a reason for the acquittal – weakness of the prosecution, or whatever – and he continues to insist on *his* outcome. Mr. Kennedy knows, and when he knows he is very sure that he knows. Society's cumbersome and guarded ways for finding out don't matter all that much. Thus Mr. Kennedy, again in his book as well as in his investigative work, knew all about the so-called Apalachin gangland convention. In *The Enemy Within* he wrote before the recent conspiracy conviction based on such "knowledge" was dismissed in court, but it is a safe surmise that Mr. Kennedy continues to know.

The Attorney General of the United States is the nation's chief law officer. More than any other executive officer he is required to suffer himself not to "know" all the things Mr. Kennedy is certain of. More than any other executive officer, he is required to regard means as above ends, process above result. The Attorney General exercises the only civilian control over the FBI, whose vast files contain much unprocessed "knowledge." He presides as a judge – very often as a court of last resort – over myriad deportation cases. He decides in uncontrolled discretion whom to prosecute and when, and that is a quasi-judicial function. On the record, Robert F. Kennedy is not fit for the office.

Balance in the Cabinet

by Richard F. Fenno, Jr.

The Kennedy Cabinet is the featured attraction thus far in the 1961 political showcase. The President-elect has placed on display a collection of individuals about whom he seeks expressions of approval from the nation's political window shoppers. The time honored appeal for public support is made by producing a "well-balanced" Cabinet – one that represents the diverse interests of American life by giving to each representation at the President's council table. Cabinets are always judged, in these earliest days, by the degree to which they meet the tests of symbolic representation. Is everybody happy? Or, more accurately, is nobody too unhappy? Since Americans are especially quick to bestow confidence on the basis of first impressions, it has been a matter of immense concern to Mr. Kennedy that these be favorable.

But crucial though the solicitation of public good will is to the President-elect, history informs him that the collective Cabinet which we now see and judge will soon evoke a massive unconcern. General interest in the group barely outlives the reports of the first Cabinet meeting. Like the merchandise of so many other display windows of the holiday season, it attracts feverish but short-lived notice. Concern for the Cabinet members as representative symbols will give way to concern for them as policy makers in particular areas of national interest. For three years and eleven months of their existence, the vital question will be not "How do they look?" but "How do they work?"

The dilemma of Cabinet-making arises from the fact that the requirements for a *symbolically well-balanced Cabinet* and the requisites for an *effective Cabinet* are not necessarily consistent and even have opposite effects. In one case, *differences* in member backgrounds, qualifications and public support are stressed; the other case puts a premium on the *similar* task of all – to help and be loyal to the Chief Executive. Every Cabinet is a compromise between what the President needs to do to capture honeymoon support from the diverse elements of the population and what he would do if he had only to consider united, efficient Cabinet action in the future. (In-term Cabinet appointments, for instance, never receive the tender political solicitude of the initial ones.) In the long run, therefore, Kennedy's Cabinet-making must be judged on his success in managing the twin necessities of political support and Presidential assistance.

Senator Kennedy's most risky appointments are precisely those which seem to sacrifice one consideration unduly to the other. The appointment of a former investment banker and member of the Eisenhower team, Republican Douglas Dillon, as Secretary of the Treasury is a major symbolic gesture. It is plainly calculated to calm the fears of those who had charged him with fiscal irresponsibility during the campaign, to win support from the nation's financial community, and to rally

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Republicans behind the Administration. But the appointment disregards the historical lesson (first learned and enunciated by George Washington and most recently by President Eisenhower in the case of "the plumber" Secretary of Labor, Martin Durkin) that bipartisan representation is not conducive to unified Cabinet action. Dillon's ability to maintain effective working relations with his colleagues and his President will thus be a major Administration question mark as 1961 unfolds.

By selecting Robert Kennedy as Attorney General, the President-elect is attending to the future success of his Administration, for he has assured himself the assistance of his most trusted, loyal, and helpful confidant. Symbolically, though, the selection of his brother is an early liability. It has scant popular appeal; and it leads to some early disenchantment.

As if to demonstrate, however, his capability for shouldering such risks, Kennedy disarmingly announced the Dillon and the Kennedy appointments as a package on the same day. Thus he invited two groups of critics to balance off one unorthodoxy against the other and return a favorable verdict on both.

Nearly all Cabinet commentators have testified to Kennedy's acumen in providing a little something for everybody and not too much for anybody. The Cabinet has geographical, ideological, political, occupational and religious balance. By taking the usual step of publicizing the rejected offer of Postmaster General to Rep. William Dawson (and of former Mississippi Governor Coleman's declination of another post), Kennedy even elicited partial credit for achieving racial balance.

Within these traditional dictates of symbolic representation, Kennedy has chosen an official family that bears the unmistakable imprint of his personality and his beliefs – thereby differentiating it from any that went before. In contrast to the Eisenhower group, it presents the face of youth – 47 years average age to 56 years average age. It has been called the most urban Cabinet in our history. Its members boast a more impressive record of scholarly achievement than their predecessors – reflecting Kennedy's own appetite for new ideas and his comfortable respect for academia.

Ideologically, the cast of the group is distinctly liberal as contrasted to the right of center orientation of the Eisenhower appointees. Like Kennedy's, the liberalism of the Cabinet is moderate – devoted to the practical achievement of progressive legislation, but flexible on matters of detail, timing and technique.

Fewer of its members (four as against seven in the previous Cabinet) have close ties with the business and financial world. The Kennedy Cabinet is weighted, instead, toward publicly experienced men. Seven of his choices have held positions as Congressmen, state Governor, or top level national administrators, whereas only three of Eisenhower's so qualified. This shift promises to replace the most politically naïve Cabinet of the 20th Century with the most politically adept one. It is, of course, the natural by-product of the vast difference between Eisenhower's distaste and Kennedy's affection for 'politics' – the means whereby we "move forward."

In the manner of selection, Kennedy has exhibited great care and great confidence. Following Franklin Roosevelt, he has acknowledged his debt to those who (like Kennedy, Ribicoff, Hodges, Freeman, Udall and Goldberg) stood with him from the beginning at Los Angeles; and he has extended no charity *via* a Cabinet appointment to his rivals for that nomination. Yet he has boldly surrounded himself, in the three most critical positions with two men (Secretary of State Rusk, a Democrat, and Secretary of Defense McNamara, a Kennedy Republican) who were neither pre-convention supporters nor personal acquaintances, and one man (Dillon) who was a Republican for Nixon.

Unlike the last ex-Senator President, Mr. Truman, Kennedy has evinced no passion for the reassuring presence of Congressionally experienced colleagues. His reluctance, however, to appoint either Stevenson or Bowles as Secretary of State shows a sensitivity to Congressional reaction. The pattern here highlights, perhaps, the enormity of the legislative liaison role planned for Vice President Johnson as well as Kennedy's self-confidence in that area. In picking a Secretary of Labor from organized labor, Kennedy has acted to conciliate this group in a manner that neither Roosevelt nor Truman approved; yet with the same stroke, he has alienated labor groups more by his selection of Republicans for Treasury and Defense than his Democratic predecessors ever did. In all of these ways, he has juxtaposed his declarations of dependence in the past and his declaration of independence for the future.

At its best, the new Cabinet will assist the President both individually and collectively. As individuals they can lend their administrative and political talent to the carrying out of his policies in their respective departments. Collectively, they can provide him with a political sounding board, with a stimulating clash of policy alternatives, with a forum in which some coordination can be achieved and with a gathering in which to kindle administration *esprit*. In both respects, and above all, they must recognize a primary loyalty to him and a willingness to subordinate their inevitably partial outlook on policy to his necessarily more encompassing view of the national interest.

The logic of the well-balanced Cabinet may block the achievement of these ends. A person whose symbolic contribution is his executive talent may be so inept politically as to be an attraction in the show window but a liability in action. Charles Wilson is a case in point. And one of the imponderables of the new

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regime is whether or not politically untutored Robert McNamara of the Ford Motor Company will be the second of the big three automobile company presidents to try perambulating in the Pentagon with one foot planted on the ramps and the other lodged in his mouth. Conversely, some of our legendary political wizards have verged on administrative incompetence – William Jennings Bryan and Cordell Hull, to name two.

The history of the Cabinet is littered, furthermore, with the wreckage of nicely balanced teams. When differences convert themselves into the energies of internecine warfare, the President's interest is rarely served. The destructive competition of such perfectly balanced Cabinet twosomes as Jesse Jones and Henry Wallace, Dean Acheson and Louis Johnson, Martin Durkin and Sinclair Weeks illustrates the possible contrast between a Cabinet that *represents* and a Cabinet that *functions*.

A Cabinet member who extends the logic of symbolic representation to its extremes in action cultivates his own departmental interests, his own clique of Congressional allies, his own pressure group support and, perhaps, his own political future. Ten members pursuing such wholly independent, department-oriented courses are of little help to the President or to their colleagues. As an advisory body, they will be paralyzed. Yet self-centered behavior comes naturally to most Cabinet members as they struggle for the survival of their policies amid the constant marching and countermarching of Washington politics. The test of a President's Cabinet relations is not whether he can stop such behavior altogether. He cannot. The test is whether he can keep Cabinet competition and Cabinet member independence under control and make them work, most of the time, *for* him rather than against.

It is a favorable omen that the Kennedy stamp so clearly marks his appointees. There are others, too. He is likely to retain the policy initiative in his own hands and to be relentlessly active in recruiting support for it. The more personal backing he can accumulate in the country, the more his Cabinet members must rely on his assistance in accomplishing their own goals. By rejecting a Sherman Adams-like custodian of his office, he has indicated a desire to increase contact and understanding between himself and his subordinates. He may be able to moderate Cabinet disagreements by ventilating them and by keeping inter-departmental relations under constant personal scrutiny.

His old political allies have proved their loyalty under trying (albeit different) circumstances, and should be more indebted to him than ever. The others owe their appointments wholly to his personal decision. Many of them are young enough to cherish a future career in public life. For them, anything less than 100 percent loyalty to the President is a perilous form of political private enterprise. And if he is like Truman in his willingness to discipline subordinates rather than Rooseveltian in his soft-heartedness, he can compound that risk. Finally, Robert Kennedy may prove to be not only the Attorney General for the nation but an effective intra-Cabinet policeman.

Late in January, Kennedy's appointees will gather in the White House Cabinet room for a highly-publicized laying on of Administration hands. They will be visible as a group for the first (and perhaps the last) time, as they sit in nervous dignity for their official pictures. Can they possibly be as impressively well-balanced in action as they will appear to be on page one of the newspaper? Probably not. But they will come closest if Mr. Kennedy means to exercise the full powers of the Presidency, and if they mean to help him do it.

1933—Franklin Roosevelt's First Appointments

But even for America, Roosevelt's Cabinet was a strange assortment. Ideologically, it embraced Democratic conservatives and Democratic progressives, a Republican conservative and two Republican progressives, inflationists and anti-inflationists, an ex-Bull Mooser along with old Wilson men, social-welfare New Dealers along with Cleveland Democrats, mild nationalists along with internationalists, Republicans of various hues along with partisan Democrats. Politically, it catered to almost every major group: business, industry, farmers, labor; Catholics and Protestants; North, South, Midwest, Far West. Yet . . . Wallace was not liked by some farm leaders; President William Green of the AFL announced angrily that labor would never be reconciled to Miss Perkins's appointment; and there was no Jew in the cabinet. . . .

The only principle of the Cabinet's make-up was, in short, its lack of essential principle. . . . It was a Cabinet the new President could easily dominate. By no means a "ministry of all the talents," it was a body that would gain life and meaning through the vigorous overarching leadership of Roosevelt himself. —JAMES MACGREGOR BURNS, *Roosevelt: The Lion and The Fox.*
(Harcourt, Brace and World, Inc., 1956)

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Leave the College Alone

Why this thunderous clamor against the electoral college? Next to the separation of powers, it is the most ingenious expression of the American idea in all our governmental system, and its abolition would be tantamount to abandonment of a large part of that system. The discontent of extremists, whether Left or Right, is comprehensible for they never have believed in essential Americanism; but when moderates denounce the college they are giving way to stereotyped thinking.

The electoral college is the great bulwark of the principle of winner-take-all, which is of the essence of democracy. "The will of the majority is in all cases to prevail," and a majority is 50 percent plus one. True, the author of that dictum added immediately, "that will to be rightful must be reasonable," but that is a horse of another color. The whole American system rests upon the assumption that when the majority has spoken, the minority will subside, except for that muttering which is its inalienable right.

The electoral college is a device that emphasizes the fact that once a man has been elected President, he is President of all Americans, Republicans, Democrats, and even those who vote for Byrd. It's our right to cuss him, but we have no right to challenge his authority.

It is historical fact that only once in nearly 200 years has the electoral college failed to reflect the will of the majority. At its first real test, in 1800, it revealed a defect in the law that did not discriminate between a vote for President and one for Vice President, but that defect was in the law, not inherent in the system. As for the affair of 1876, that was a stolen election, and no system is proof against larceny in the hearts of the men who count the votes. Only in 1888, when Cleveland with 96,000 more votes than Harrison, was defeated by the geographical distribution of the votes, did the electoral system fail to register popular opinion.

If it registers that opinion with tremendous emphasis, why not? It needs emphasis, for the insidious danger threatening all democracies is that malcontents will not abide by the verdict of the polls. The electoral college proclaims that when you are licked, you are licked, whether by one vote or by a million, and being licked you must come into camp, or you are no true American.

The argument that the system takes power from people and gives it to empty space is not sustained by the record. Theoretically, it can happen, but in practice it has happened only once in 43 trials of the system; and for any human institution accuracy within a factor of 2.3 percent is pretty good.

Even philosophically this argument is not altogether sound. This country is not exclusively people. It is also geography, continental in extent, with enormous variations in climate and topography, both of which influence the way of human life. Thus it may happen that laws just and necessary for the teeming, multi-colored population of Harlem may be useless and indeed pernicious as applied to the Bedouins of the Arizona desert.

The will of the majority "to be rightful, must be reasonable" and it will not be reasonable if it makes no allowance for differences in living conditions, especially such differences as cannot be altered by human effort. To permit such allowances is the reason for being of our federal system. "We, the people of the United States" did indeed ordain and establish the Constitution, but "to promote the general welfare" was one of our reasons for doing so, and what promotes the general welfare in Portland, Maine, does not necessarily promote it in Portland, Oregon.

Hence the assertion that the electoral college can in theory be dominated by geography does not close the case, for it ought to be influenced by geography to some extent if federalism is to be retained. To make the argument effective, it is necessary to show that it has been influenced to an unreasonable extent by geography; and that the record does not show.

Equally shaky is the argument that the vote of one Nevadan equals those of six New Yorkers at the polls. Perhaps so; but in the electoral college the vote of New York equals that of 15 Nevadas, so it all comes out in the wash – or very nearly so, as is demonstrated by the fact that only once in 43 times has the will of a clear majority been defeated in the college.

Proportional representation it does deny, but in practice proportional representation means splinter parties and no efficient and responsible government; so the denial is actually one of the merits of the system. In sum, here is one opinion that the electoral college is a good thing that ought to be stoutly defended.

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The Justice of the Means of War

by William Lee Miller

The nuclear arms business can offer contrasts even more stunning in their irony than those of a modern commercial Christmas. The "open house" at Vandenberg Air Force Base last fall, for example, proved to be a sort of a Kansas State Fair with glimpses of Hell. On a beautiful Sunday in sunny California we piled the kids into the station wagon and tootled along the blue Pacific and up through the hills (past signs saying, first, "Watch out for Deer," and then "52nd Missile Squadron – Peace is our business") to join these thousands of happy American families, with sport shirts, blankets, and cameras, in this big flat park-like place where we could all see our nation's "missile muscle." The children played on the grass. We listened to the band, bought ice cream bars and Pepsi-Cola from the local Boy Scouts, and poked around in displays of the Titan missile. We climbed up into a new jet bomber. We were pled with to stay out of the center bleachers where the Commanding General's personally invited guests were allowed only, please. We clapped enthusiastically as varieties of fighters and bombers droned by in front of us and were otherwise entertained ("It is the pleasure of the 51st munitions maintenance squadron to present a show, or, you might say, a demonstration – an explosive sequence; we hope you enjoy this demonstration, ladies and gentlemen"). We watched cheerfully while there were shot off for us several highboys ("Let's hope we don't hit no Russian subs out there – because those are going outside the three-mile limit," joked the master of ceremonies, a jovial fellow). As frolicking folk will, we got in the way of the program ("We will not detonate until everyone is back 50 feet; there are people or somebody in the area"). Finally as the *pièce de résistance* we had a "simulated atomic explosion," mushroom-cloud and all ("We hope to give you a big fireball"). It was quite a day.

A new stamp bears the legend "And this be our motto, in God is our trust" and, under that, a picture of an exploding bomb.

The Just War
A Study in Contemporary American Doctrine
by Robert W. Tucker
(Johns Hopkins; $5)

A certain lack of sensitivity – or of a sense of humor, or irony, or something – that these exhibits display has a more serious counterpart in the set of ideas with which we have tried to deal with the phenomenon of nuclear-missile weapons. Just as the weapons themselves have been fit comfortably into old habits and pieties, without apparent strain, so the implications of the weapons have been fit comfortably into old ideas and attitudes.

Familiar American doctrines combined during the forties and fifties to keep the generality of Americans more or less complacent about the new weapons. One doctrine – still operating powerfully, needless to say – has to do with technology and "progress," and says that whatever new things can technically be done, should be done. Questions of need or of social consequences are overridden by the sheer dynamism of technical competence: if you can build it, do so. With respect to weapons, of course, this is combined with the fears and antagonisms of the Cold War: we have to build it because they are going to build it.

This apparently unstoppable dynamism is justified and protected by another set of American ideas, having to do with force, war and peace, and our moral image of ourselves. As to the latter, we Americans tend to regard what we do in the international field as obviously justified because we are who we are, a people well-known as virtuous, democratic, anti-imperialistic, and peace-loving ("Peace is our business"). Then, with respect to force and war, our fortunate history and our intellectual heritage have given us a deep and unpolitical individualism and voluntarism that, overestimating the reasonableness, good will, and freedom of men, has been more or less blind to the pervasiveness of force in society, and has regarded it as a peripheral and unnecessary intrusion, resorted to only by evil folk. Good folk (*e.g.*, us) use it only on the rare occasions when they must resist the force used by evil folk. Normal and peaceful life is radically separated in our mind from the condition of power-conflicts, force, and war. When we cross the line from peace into war, we enter then an absolutely new world, disjoined from normal peaceful existence and therefore governed by quite different rules of its own, if any. In that world the strain of violence and toughness in our culture, subordinate but real, gets its release. Therefore, ironically, this moral and peace-loving folk has tended, when it has become engaged in conflict, to do so in an unlimited all-out way under sweeping absolute moral justifications and toward unlimited ends like unconditional surrender. This inclination, bad enough before, becomes ferocious in the nuclear age: it means we may threaten to use a force that can destroy civilizations, in response to any and every incident that can be called "aggression."

This book is part of the increasing challenge to these traditional American ways of looking at things. Mr. Tucker is a teacher in the Political Science Department at Johns Hopkins, and he does the kind of thing one is glad to see done – not descriptive "science" but disciplined political-ethical thinking about contemporary political problems. He has written a subtle, reflective essay on American moral justifications for the use of force in war, as they relate

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to the nuclear age. He takes the kind of analysis of American ideas of force and war worked out, for example, by Robert Osgood in his book on "limited war" and by others, and as more-or-less summarized above, criticizes the specific form these ideas take in our doctrines of "defensive" and "preventive" war.

American ideas about force result in the doctrine that the use of force is morally justifiable only in self-defense against the aggressive use of force by another. From this comes a tendency to identify the justice or injustice of war with the acts attending the initiation of force: who started it? Our outlook leads us to assume conflict to be rare and unnecessary, and so never necessary but always freely chosen. The resort to armed force thus is not only an evil, but a wholly unnecessary evil. We think of the international society by analogy to our domestic life (quite wrongly, as Mr. Tucker shows), and regard the resort to force as the occasional recourse of an evil few. "Aggression" and conflict arise because aggressors miscalculate the will and power of those who will resist them. The way to prevent the outbreak of force, then, is to face the evil few who might perversely resort to violence with the threat of the overwhelming force to be used against them by the peace-loving majority, and with blunt indications that the force will be used. Then they will not miscalculate and war will not break out. If it should, however, then all force available may be employed to put down the aggression, because force is identified with total force, and the purposes for waging war are solely and simply to put down "aggression." The ones doing the putting down need no restraint upon their action, since they act in "self-defense" or "collective defense" and hence in accord with moral law.

Robert Tucker – being a member of the dilemmas-hazards-ambiguities-paradoxes-perils school of realistic but morally earnest reflection on politics (a good school, even if sometimes we are a little too ambiguous and paradoxical) – shows the moral dilemmas in this view. Some of the dilemmas and hazards were there even in the days before nuclear weapons. The paradoxes and perils are vastly accentuated and increased, however, in the present period. If we make the justification for our use of force turn only on the conditions under which conflict was initiated (who was the aggressor and who the defender?), then we have no restraints to exercise upon the use even of nuclear force once it is undertaken. If we can persuade ourselves that we are acting defensively against an aggressor, we are persuaded that anything goes.

Though Mr. Tucker is not given to preachment or even to conclusive statement, he clearly wants his readers to see the dubiety of this American doctrine. He asks, pointedly, "what is the justification for threatening to employ methods that have no discernible limits?" He questions the policy that seems to say that the literal annihilation of an aggressor may readily be justified as a defensive measure. He insists that nuclear weapons have changed the moral situation, and he speaks for the limits on the employment of force to be observed – especially now – even in a "defensive" war.

One of the impressive threads in Mr. Tucker's argument is a careful discussion of our condemnation of "preventive" war and "pre-emptive" war. He shows that, just as we have overdone our moral approbation of defensive action, so we have overdone our condemnation of so-called preventive action, and that both errors spring from the same root. The point is to subordinate the use of force to genuine political and moral limitations, rather than to hold to an all-or-nothing position.

The implications of our justification of all-out force, if we are defending against an aggressor, have not been fully faced, because we have expected that no such action will need to be carried out in fact. Mr. Tucker indicates

Maneuvers

Marching my boy to the music
I marched to on fields of parade
if on my shoulder a finger
should tap me – "May I cut in?"
and by night he is dead, should I break
the band on my knee, or unhinge
the balls of my feet?
We are marching;
left right down the length of a field
we are marching, toward white tents with flags;
and along the sides on mounds
the casual marksmen aim
and fire at will, while the bulls
shoot up like stars, and we fall
at the edge of our eyes, and fall.

O soldiers, O unknown soldiers,
if all one body we
right-flanked to the pits of their eyes
would the guns not fall, and the hills
crawl with flight.
Or piercing
the puffs of smoke should we find
only a stray dog barking
in fear, and an insolent wind
twitching the edges of our graves?

PAUL PETRIE

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that we have not fully considered the question: what if our deterrence fails to deter? The positions that now seem most legitimate and "defensive" might then become the most inhumane in actual carrying out, for they involve the unlimited, punitive attack upon the peoples of the other power.

In his essay, Mr. Tucker is condemning, as many have done, the Dulles doctrine of massive retaliation," the extreme example of the errors he is discussing. However, it is not Mr. Dulles and the policy of the mid-fifties alone that is here criticized. His questions involve all our American nuclear age thinking. He quotes and argues with Dean Acheson, George Kennan, and Harry Truman; by implication, he questions Henry Kissinger, and various strategists; his footnotes work over the inadequacies of churchly and other examinations of the ethics of nuclear weapons. He disclaims any intent to "solve" his dilemmas, and he does not apply his reflections concretely to policy; even without such solutions and applications, however, his essay is very far from being an "academic" discussion. The questions in it are strong.

Although he uses the phrase as a title, Mr. Tucker does not refer significantly to the traditional theory of the just war. However, his essay may be taken to be an underlining of a most pertinent item in that traditional theory, the question of the justice of the *means* employed even in an otherwise justified "defensive" war. To Vandenberg Air Force Base and all those missiles, bombers, and exploding bombs that we so far have justified to ourselves too easily, Mr. Tucker puts this query: What moral ideas permit, in the effort to insure a nation's survival, the destruction of a vast portion of humanity?

Fifteen Years of New Writing

by Katherine Garrison Chapin

For those who have not had an opportunity of reading the poetry coming from writers of the *avant-garde,* this unusual anthology will serve as more than an introduction. It may be something of a surprise, and an enlightenment. Surprise because of the size and variety of content – 44 poets represented in 219 poems. And it will be enlightening to those who, aware of the rumblings of a literary unrest, had been unable to judge whether the sounds indicated an upheaval or were merely the echo of toppling pedestals from under figures who had stood so long and so high on the horizon.

The New American Poetry – 1945 – 1960
edited by Donald H. Allen
(Grove; cloth, $5.95; paper, $1.95)

On this point, one of the new writers is sarcastically definite.

"Who are the great poets of our time and what are their names?" asks Kenneth Koch in a poem included here, called "Fresh Air," and he answers: "Yeats of the baleful influence, Auden of the baleful influence, Eliot of the baleful influence."

Behind this bombast what else is at work?

To break away from the forms in art that have grown sterile or confining is a process which takes place continually, on a large or small scale throughout the history of English poetry, and has since the days when Edmund Spenser was hailed as "The New Poet" and accepted as such by his generation. It was inevitable that the prominently-enthroned poets would one day be looked at without reverence. A few years ago Robert Graves came out with a blast against some of these "gods," and now Karl Shapiro's more thoughtful revaluation of Eliot as poet and critic in his essays *In Defense of Ignorance* has expressed the beginnings of an opposition which has been felt by other writers. A rebellious swing off center has been impending for some time – this volume shows its extent and direction.

To discard is easy but the new poets are not merely negative in their approach. They consider that they belong in the American movement of modern art, they align themselves with abstract painting, experimental music and jazz. They have grown impatient with the New Criticism of the thirties and forties, and they reject whatever they feel is "academic" in writing – a wide term. Their literary ancestry stems variously from Ezra Pound, from the rhythms of W. C. Williams, the "breathing-space" punctuation experiments of E. E. Cummings, and H. D.'s classical brevities.

However, from the variety of styles one discovers at once that the new poets are not an affiliated group. They are primarily anarchistic individuals with scattered impulses toward both experience and form. They cannot be compared for instance to the movement that produced the *Lyrical Ballads* of Wordsworth and Coleridge. They do not have the homogeneity which gave the Imagists their shape and cohesion. In some instances they revert to a revival of surrealism or accept the meaninglessness of Dada. Their only unity lies in a determined revolt from the recent past, though they do not all agree on the same baleful influences.

It is too early to determine the value of what Mr. Allen calls this "strong third generation of writers." In his brief introduction he does not evaluate the poems. The poets speak for themselves. They are highly self-conscious and articulate, humorless and a little portentous. It is in their biographical notes and esthetic theories that we get their flavor. Some of the Beat Poets write frankly the sordid stories of their youth and emphasize their knowledge of poverty, crime and perversion which forms the backdrop of many of their poems. They supply the reader with intimate details in verse of such things as their morning ablutions, shaving a rough face, brushing their teeth or washing their underwear. They are often naïve in their discovery of some long accepted poetic values – the power of the spoken word – or that there is rhythmic "energy" inherent in the romantic ballad form.

What one looks for in vain here is a fresh, creative impulse in poetry. The new poets write of contemporary life, its violence and speed, its cruelties and hungers, its drab horrors and its wild excitements. Often these poems are like candid-camera shots, presenting feelings and emotions from an unbuttoned angle. They reflect a weary disillusionment following the last war. Nearly all

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of these poets have travelled; lived, worked and gathered impressions (and clichés) in different corners of the globe from the far East to the West; they have read and listened to foreign rhythms, languages and music. But this experience only seems to have added a dimension to the depth of their spiritual bankruptcy. Their sole armor, facing a hostile world, is a vocabulary of psychological technique, bequeathed to an alert and anxiety-ridden generation by Freud and Jung.

Mr. Allen divides his anthology into groups by age, style and region. Their youth is a clue; but that some cluster in California, some in Tennessee is not helpful to our understanding, for they are not "regional" poets in any sense of the word, and could as well belong in Chicago or Greenwich Village.

Charles Olson, older than the others, has been publishing for twenty years. He heads a group who are represented by interesting poems: Robert Duncan, Helen Adams, Denise Levertov and Robert Creeley. Olson, in his long poem "The Kingfishers," and in "A Newly Discovered Homeric Hymn," moves away from sordid realities into a thoughtful philosophic ambiance.

Of the group of Beat Poets, originating in San Francisco – who give color to much of the book, though they are only one section of it – Lawrence Ferlinghetti and Gregory Corso have fluency and imagination. Jack Kerouac's and Allen Ginsberg's shock value is their strongest asset. They stand out among the rather prosy and tiresome diatribes of their less talented followers, whose synthetic mixtures do not even carry the power to shock. These are poems which Robert Lowell has rightly called "raw, huge, blood-dripping gobbets of unseasoned experiences dished up for midnight listeners."

Notes on Contributors

William Lee Miller *is a member of the Center for the Study of Democratic Institutions in Santa Barbara.* Paul Petrie *teaches English at the University of Rhode Island.* Katherine Garrison Chapin's *newest collection of poems is* The Other Journey.

MOVIES

Another Russian Problem

What has happened to Soviet films? From about 1920 until World War II, the Soviet Union, with its films, gave the lie to those who said that good art could not flourish under Communism. Spurred perhaps by Lenin's early recognition of the importance of this medium to the Revolution, in crude propa-

Ballad of a Soldier
(Kingsley)

gandistic form at first but with astonishingly rapid refinement, the Soviet film rose to international preeminence. Hardly a year went by without at least one Soviet film of enduring merit; and the three great Russian directors of the era – Eisenstein, Pudovkin, and Dovzhenko – have something of the same relationship to the world of film as the 19th-Century titans of the Russian novel have to literature.

Production was surprisingly large during the war, and the main effort was, understandably, again propagandist. But since the war, the Soviet films seen here, excepting the two parts of Eisenstein's *Ivan,* have been shallow works, with almost none of the breadth and energy and vision of the pre-war films, disclosing no new director of more than derivative competence, distinguished only by that warm immediacy in the acting which Russian actors seem to acquire in the cradle.

The Cranes Are Flying, to name the most discussed and be-laureled of the post-war lot, was a puritanical sin-suffer-and-repent story of a wayward wife, studded with such hokey directorial touches as bomb explosions and flashes (in place of Jehovah's thunder and lightning) during her seduction. Now, also garlanded with prizes, comes *Ballad of a Soldier,* which is an innocuous magazine story about a teenage front-line soldier, granted a few days' leave for extraordinary heroism, and his idyllic, innocent encounter in a box-car with an equally young girl. The whole is framed with ponderous statements about the son of the village who went forth to die for the motherland, but these cannot give depth to what is essentially an Audie Murphy-Debbie Reynolds script done with black bread and borsht instead of hot dogs and Cokes. Vladimir Ivashov is perhaps more varied than Murphy would be, Shanna Prokhorenko is not as good an actress as Miss Reynolds. Grigori Chukhrai's direction is merely adequate. (Chukhrai, on his recent American visit, stated that he wants to do only pictures that really say something about life.To judge by this work, he would be quite happy at 20th Century-Fox.)

One must deduce that the festivals which crowned this film were impoverished and/or their judges are victims of that snobbism which makes superficiality in a foreign tongue and setting seem profound. It must also be noted that, though this picture is being shown in New York with sub-titles, it will be released nationally in a dubbed version, so that most audiences will be cheated of the vocal half of the picture's only real asset, its pleasant performance.

The question remains: what has happened to Soviet films? Here is one answer – in Jay Leyda's valuable history of the Russian and Soviet film, *Kino,* recently published by Macmillan:

> "Now . . . outside the Soviet Union as well as at Mosfilm and Lenfilm, the least discussable problem is the contradictions in the medium itself, an art and an industry. The sad, blank chapters in the careers of Stroheim and Flaherty have some motifs in common with the silences of Eisenstein and Dovzhenko. . . . It seems clear that the larger the 'plant', the more convenient the equipment, the more organized the distribution apparatus – the greater the danger of the film growing less individual, more uniform, and less worth anybody's effort. Throughout Soviet film history, the films were finest when they had the individuality that any industrial administra-

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tion, by its nature and purpose, was bound to distrust."

Mr. Leyda concludes hopefully: "A consciousness of this danger is a great step forward."

But we have had as yet no evidence of that step forward. *Ballad of a Soldier* is a self-satisfied little chuckle by a nation indulging in sentimental retrospect about a terrible war, now that it is part of history. There is no point in belaboring this slight picture, for one scrawny swallow doesn't make a winter. But it is part of a flow of films seen here which argue a certain mental adiposity in the Soviet Ministry of Cinema. (This is the determinant; for the hottest-flaming genius who ever lived couldn't make a film in Russian without their approval.) No "step forward" has yet reached these shores.

More than one social-political commentator has noted current parallels in the silhouettes of the USSR and the USA – two huge non-homogeneous societies, not long out of the frontier era, trying to outdo each other industrially and scientifically; both claiming idealistic impulse, but both rooted in materialist standards because of their competition as much as for any reason; one calling itself atheist and the other theist with, probably, about equal reality in both labels. Now, in many respects, Soviet films have become like American ones: smooth and hollow, repetitive, designed not to disturb and arouse but to soothe the largest audience possible. The American films are superior technically, the Soviet films better acted; neither group is marked by imagination or creative excitement.

It is curious that one can make an international index of levels of film art according to the various countries' involvement in the nuclear arms-race. Sweden, Italy, India, Japan, Poland, which are among those countries not seriously involved, possess strong voices in the film world. France and Britain, which *are* seriously involved in the arms-race, are still vocal though less interesting than they have been. The Americans and the Russians, at the head of the nuclear arms-race, stand relatively mute in this sphere. The index is incomplete and over-simple; still it seems not entirely irrelevant.

STANLEY KAUFFMANN

ART

Sculpture and Aesthetic Dogma

In some dim, ironic sense, Naum Gabo's "Linear Construction with Red" presides at the Whitney Annual of Sculpture and Drawings. The piece is a lovely example of Gabo, graceful, simple and complex at once, a formula of higher mathematics miraculously given shape in space. At first there seem to be two basic forms, streamlined parallelograms, intersecting at right angles and strung together with strands of spring steel. But the strands form their own curving planes and the eye goes endlessly in and out of the shaped space while the mind is never finally sure whether the curved planes of the strands are determined by the intersecting parallelograms, or whether the parallelograms are projections of the curving planes.

The irony comes from history. Gabo's constructivism was one of the first (if not the first) of the century's art theories to be put forward with absolutist claims. Not so much from Gabo as from his admirers, the point was made not that constructivism is one valid way of sculpture in our time, but that it was the only valid way. And there at the Whitney stands his construction, chaste and austere and one of the few pieces on view with an air of classic balance and precision.

Taken all in all, the sculpture at the Whitney shows an almost total bypassing of the paths pointed out by Gabo so many years ago. Most of the shapes are what has come to be called organic as opposed to Gabo's mathematics. More than that, a high percentage of the work on view is representational in the broadest sense. By that I mean the work refers to something outside itself; whatever values of form or process or material are stressed, they are combined with a glance of observation or a moment of insight about things in the world we all inhabit. The sculptors are almost all free from the dreary prison of egomania populated by so many American painters throughout the decade just ended.

Besides Gabo, the only two practitioners of the mathematics of space that I recall from the show are Calder and Jose De Rivera. The pieces by both are mechanically animated. Because of the margin for free arrangement of the different elements in a mobile, Calder's "The Snow Flake Tree" does not seem mechanical at all. The motion is rather that of occasional, gentle pushes making the branches and leaves rearrange themselves in new patterns. De Rivera's construction is one of his familiar stainless steel bars, sweetly curved and extended horizontally about six or seven feet. Mounted on a high pedestal, it slowly revolves, casting a changing shadow on the wall and making the same kind of space-development that Gabo's piece attains standing still.

I suppose if there's one common characteristic of the American sculpture that developed alongside the Abstract Expressionist painting of the fifties, it's heightened consciousness of materials. In the Whitney this heightened consciousness has been turned to good account in pursuing some of the older ends of art. Take junk. Scrap metal really came into its own in the last decade and the man chiefly associated with that development, Richard Stankiewicz, is represented in the show by a fairly pure example of junk. Some chains, some bars, some narrow springs are suspended around a thick bar which towers above the others at the center and that's that. What it signifies, I guess, is that we should all pay more attention to the rubbish of life – it may be worth looking at. I think it also signifies that Stankiewicz has been taking

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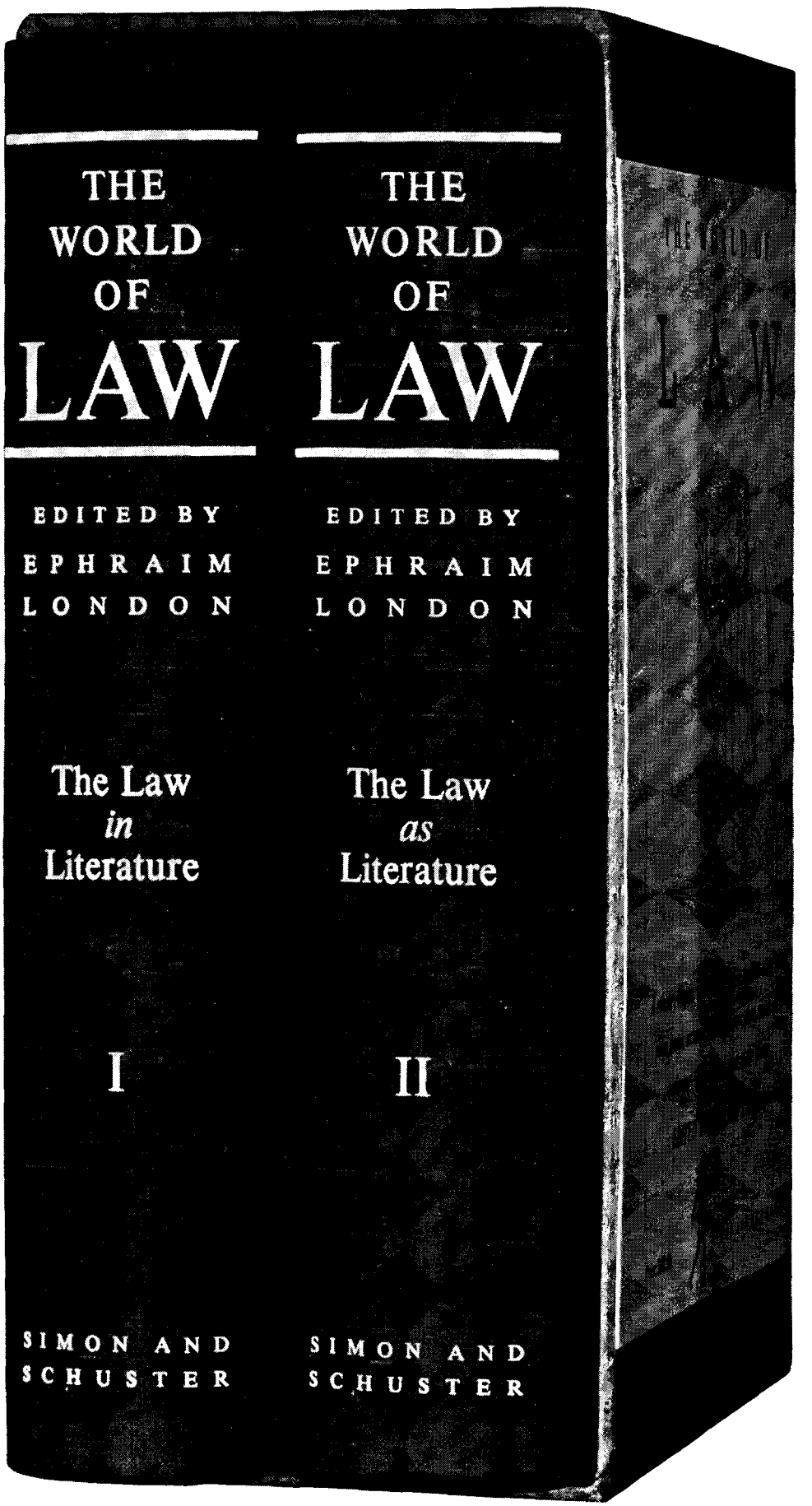

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the mystique of junk a lot more seriously than he used to. On the other hand, Edward Renouf has a "Chow" fashioned out of junk that is amusing and even charming in its caricature of the animal. Stankiewicz's language, you may say, has been used to tell jokes, but the joke is funnier than the master's sermon is edifying.

As a matter of fact, there's a good deal of wit in the show and some of it takes advantage of the extended language of materials. Joseph Konzal's "Cityscape Number 4" is composed of ordinary door hinges, nails, bolts and wing-nuts, welded together and gold-plated. The result actually does suggest the prospect of a high apartment building: the flat halves of hinges with their regular piercings are walls with windows; the simple structure of nails bent and straight recalls the plumbing of such a building; the piece is a pun and a reminder of the correspondences between all sorts of unlikely combinations, rather than a merely petulant demand that we democratically give some attention to hinges since hinges have existence, too.

One of two funniest pieces is William King's "At the Party," which is an eight foot elongated man made out of sheet iron. He wears spectacles, he has one hand in his jacket pocket and he balances on his feet as if spying a stranger across a crowded room, or perhaps a way clear to the front door or a drink on a passing tray.

The other is "Mr. and Mrs." by Chaim Gross in bronze. The gag is right out of the silent movies, where the paunchy comic tries to give himself a hero's chest and as fast as he hauls his bulk up into position, it slips back down. Here the two phases are separately incorporated in the two people. She has a magnificent bosom, he a medicine ball of a belly. He's shorter than she and together they're wonderful. Talk about the return to the figure!

All this suggests to me that the widespread presence of wit at the Whitney show is still one more indication that the long dominance of the stodgily earnest is ending along with the reign of the stodgily earnest man in the White House. But the sculpture has a lot more to it than good clean fun. For me the most compelling combinations of idea and material are David Hare's "Leda" and Leonard Baskin's "Lazarus." The "Leda" is the more spectacular. The texture is of welded rods which give the feeling as well of muscles and sinews straining toward consummation, while Leda's head thrown back announces its attainment. Woman and swan are completely mixed up: the arch of the bird's neck is repeated in the woman's arm, in her leg, in her fingers spread like tail-feathers. Only her head, actually, is completely unambiguous; everything else is both swan and woman, god and mortal at once, a daring conception that is superbly given existence.

"Lazarus" is more solid. It depends for much of its impact on the sheer weight of the winding cloths, the funeral garments which encase the body beyond recognition. Out of the top of this monument of dead weight emerges the head of the resurrected Lazarus, motionlessly struggling back to life and lightness. Again the conception is a total fusion of the materials of sculpture and the reality of an ancient event.

These are, necessarily, but a few highlights; the New York show has many others and will be on view through January 22.

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THEATER

A Satanic Masterpiece

In the Jungle of Cities by Bertolt Brecht (Living Theater)

In the Jungle of Cities is an extremely enigmatic and perhaps ultimately elusive work, but it has a diabolical brilliance and hypnotic power which is quite overwhelming, and it leaves its mark on you like a wound. Brecht seems to have been goaded to write this early play by some frenzy in his unconscious, for he displays here that "prodigious and rational disordering of all the senses" which Rimbaud identified as the special attainment of the visionary poet. The result is a cruel phantasmagoria of life on our forsaken planet, illuminated if not warmed by a fierce poetic intensity. The plot moves in an episodic series of seemingly gratuitous incidents; the characters act on each other as in a dream, without any conventional cause-and-effect motivation; and the atmosphere is thick with that harsh oppressive glow one finds in a Van Gogh interior. Yet, although the play has the quality of a hallucination, and is therefore tortured and obscure, it possesses a strange consistency all its own like the inner logic of a non-discursive poem.

Located in Brecht's mythical Chicago and wandering through a sordid Chinatown possibly inspired by Anna May Wong movies or Charlie Chan novels, the action features an "inexplicable wrestling match" between two men, fought without apparent motive and concluded only when one of them is dead. The first round begins when an aging Malayan lumber dealer named Shlink offers to buy an opinion of a book from a lending-library salesman named George Garga. The offer has been carefully calculated to lead to combat. Searching for a worthy antagonist, Shlink has fastened on the salesman because Garga, bred in the prairies, still maintains a vestige of idealism in a city jungle where everything is for sale. When Garga takes the offer as an insult, Shlink makes him a victim of economic pressures, knowing that Garga will fight to retrieve his isolation and independence. The duel is on. But while Shlink fights only for the excitement of the encounter, Garga fights to kill, seeking his former freedom through Shlink's death.

Shlink accepts this passively, actually

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having hired Garga to kill him, and places his power, wealth, and fate at Garga's disposal. But Garga – sacrificing his family, his girl, and his personal ambitions for his revenge – uses these weapons to destroy Shlink indirectly, by making him his own executioner. Ordering the submissive Malayan to engage in a series of condemnatory activities, including the seduction of Garga's sister (who already loves Shlink without return), Garga also makes him contract a fraudulent business deal. When Shlink is caught, Garga voluntarily serves his jail sentence, but not before he has deposited a letter, to be opened upon his release, accusing Shlink of having "raped" his sister. Having thus KO'd Shlink with a "very blunt blow," Garga, like Judas, spends three last weeks with his victim, now on the run from a white lynch-mob. Instead of concluding the business himself, he leaves Shlink to commit a ritual suicide, full of despair over the futility of the struggle. Liberated both from human and economic demands, Garga then returns gladly to the isolation he once enjoyed, with only a twinge of regret for the chaos which is past.

I have selected this line of development from an abundance of plot details in order to clarify the thematic content play, now a source of confusion to many commentators. For example, Brecht's brilliant biographer, Martin Esslin – ignoring the author's warning not to "wrack your brains over the motives of this fight" – has urged a homosexual interpretation, glancing at the relationship between Verlaine and Rimbaud. But while Rimbaud's influence is clear in the style of the play, such an explanation misplaces the emphasis, introducing a physical motive into an essentially metaphysical combat. I think this puzzling duel must be interpreted as a metaphor for man's effort to make contact in a world of terrible isolation. Garga, who merely wishes to survive, embraces this isolation for the sake of his spiritual freedom, but Shlink (like Strindberg who sought the "joy of life in its strong and cruel struggles") tries to transcend it through "enmity," the Romantic form of love. Shlink fails because in the jungle of cities man's skin has become so thick that he cannot even perish cleanly at the hands of an adversary. Unable to connect either through love or hate, armored from everything but his own suffering, the wild beast man walks alone in a prison of self, and "generation after generation looks coldly into the eyes of the next." In dramatizing the failure of the Romantic will-to-life, Brecht has descended into a nihilism so desperate that only his later commitment to Marxism was to save him from despair.

The Living Theater has conducted its own wrestling match with the work, and with a little more rehearsal time might have pinned its opponent conclusively. The production has a great number of felicities and virtues, but clarity is not often among them – the sum of the evening adds up to less than its individual parts. Gerhard Nellhaus' translation is partly to blame, for it is needlessly vague and verbose. Judith Malina's direction is thoughtful, imaginative, and relentless, and she has developed a tough, jazzy cabaret style closer to Brecht's intention than anything I have seen in America, but her approach lacks focus and emphasis. And there is too much of Teijo Ito's eerie Oriental music which, chillingly effective in certain places, now tends to drown the dialogue.

On the other hand, Julian Beck's skeletal setting – a wrestling platform above which are suspended mobiles, Japanese lanterns and various pieces of jetsam – is an artwork in itself. And though Garga is played too feebly to make the combat meaningful, many of the other performers are superb – notably Khigh Diegh who plays Shlink with masterful inscrutability, great variety, and ritualistic grace; John A. Coe who makes his associate, Worm, an amiably sinister George Grosz cartoon in a bowler hat and cavalry moustache; and Marilyn Chris as Garga's boozy, push-over girl friend. In short, while the Living Theater has very effectively evoked that weird gallery of gangsters, coolies, pimps, whores, sailors, and Salvationists which make up the grotesque population of this play, the essence of the work has escaped them. But then perhaps the play is ultimately indefinable. Puzzling, provocative, satanic and painful, it remains a tantalizing satanic masterpiece, its meaning barely visible at the bottom of a vast abyss.

ROBERT BRUSTEIN

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American Tragedy

Sirs:

It is gratifying to see a publication take up the American Indian question as you did in your December 19 issue ("What the Indians Want"). But I would like to add a word of caution in speaking of the "favored" tribes on whose land minerals, metals or gas has been discovered.

It happens all too often that the public, hearing of such a find, breathes a sigh of relief, conjures up pictures of oil rich Indian, *à la* the cartoon, and forgets the whole unpleasant mess. Like the exploitation of resources in the 19th Century, which made great wealth but not equal distribution of wealth, the discovery of wealth on Indian lands does not solve the problems of existence for the individual Indian family, although it holds promise for its children and grandchildren. Despite the wealth of the Navajo the average family is earning in the neighborhood of $2,000 a year. I have lived in a Navajo hogan and joined my Indian neighbors in hauling drinking-water ten or more miles and carrying sick people a hundred miles to the hospital and shared with them the anxious wait for summer rains which will keep their herds and cornfields alive. The potential capital to develop Navajo land is thankfully available but its use will demand intelligence and imagination if these 85,000 Americans are to enjoy some of the material benefits of modern America and retain their individual freedoms. Perhaps nothing expresses the thoughts of the modern Navajo better than the following passage from a letter I received recently, written by a one time paratrooper:

"I vote for Nixon and lose, I hope next President Kennedy understanding our problem . . . we just hope Someday he will come over to see us with his own eyes. . . . I guess you know how hard it is to have stock to raise without no water, the way we do here, anyway we get by with it Somehow every year. That's the way we were raise with sheeps and horses and cows So we love [them] so much with all our hearts. No matter how hard we work we don't mind at all. I just hope Someday I will have enough to live on it."

My friend, at least has hope, which as your article points out is denied to many less fortunate Indians I have known throughout the West. The Indian problem parallels in many respects the problems confronting the newly emerging nations throughout the world who are experiencing Dean Rusk's "revolution of rising expectations." If we fail to solve this problem we cannot expect to meet the problems of Africa, Asia and Latin America. A new start based on 1960 and 1934 is desperately needed.

James Francis Downs
Berkeley, California

Disarmament and Khrushchev

Sirs:

I read with particular interest the letter by V. Matveyev (November 28) and your editorial comments. I was surprised that you made no reference to Mr. Matveyev's statement that the Russian proposal to the United Nations included the proposal for "general and complete disarmament *under strict international control.*" I have been under the impression that Mr. Khrushchev has been unwilling to consider any international control and that has been the chief point of difference between the USSR and the USA.

If Mr. Matveyev is correct in his quotation, is it possible that our government has deliberately misled the people of this country as to the real attitude of Mr. Khrushchev in this matter of coexistence?

Gardner Lattimer
Cincinnati, Ohio

In reply:

Mr. Khrushchev never defined what he meant by control. Previous efforts have revealed great reluctance on the part of the Soviet Union to accept any system of inspection that might provide real security.

The Editors

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